

FEDERAL MEDIATION AND CONCILIATION SERVICE

In the Matter of the Arbitration)
between)
)
 American Federation of Government)
 Employees (AFGE) Local 1034) FMCS No. 13-52816-7
 (Union)) Fair Labor Standards Act
) (Portal-to-portal)
 - and -)
)
 U.S. Department of Justice) **PARTIAL FINAL AWARD**
 Federal Bureau of Prisons)
 Federal Correctional Complex (FCC))
 Pollock, Louisiana)
 (Agency))

Before: Maretta Comfort Toedt, Arbitrator, duly selected by the parties from the roster of the Federal Mediation and Conciliation Service (FMCS)

Appearances:For the Union*

John-Ed Bishop Attorney
 Jack Whitehead Attorney
 Jason Shannon Chief Steward, Senior Officer Specialist, witness
 Adam Smith Treasurer, Senior Officer Specialist, witness
 Brian Richmond Local Union President, witness
 Patrick Laborde Former BOP employee, witness

*The remaining witnesses called by the Union can be found in Appendixes K and L

For the Agency

Jenifer Grundy-Hollett Attorney
 George Cho Attorney
 Kathleen Harne Attorney
 John Bacon Lieutenant/Technical Representative, witness
 Michael Lacaze Human Resources
 Michael Melton Discipline Hearing Officer, FCC Oakdale and FCI Pollock, witness
 Glen MacDonald Deputy Captain, witness
 Roger Christopher Computer Services Manager, witness
 Pamela Omelson Lieutenant, witness
 Shawn Tipton Lieutenant, witness
 Bobby Ventura Lieutenant, witness
 Jermaine Darden Lieutenant, witness
 Alan Cohen Correctional Services Administrator for the South Central Regional Office, BOP, witness
 Prince Eben Lieutenant, witness
 Oscar Mack Lieutenant, witness
 Sarina English Lieutenant, witness
 Michael Carvajal Warden, witness

Summary of the case

1. On December 7, 2012, the Union filed a grievance alleging that the Agency had violated the parties' Master Agreement and the Fair Labor Standards Act by not paying overtime for time spent in certain preliminary- and postliminary activities. The parties have agreed that this partial final award is to address where the continuous workday starts for certain correctional officers (and thus where the officers' compensation begins), and what activities are compensable. See Agency Brief at 1-2; Union Brief at 168-170.

2. **Union's position:** The Union contends that the portal (or compensable workday) at FCC Pollock starts in the lobby when employees are required to undergo mandatory security screening. In the alternative, the Union asserts that the work day starts at Slider 1 at the Control Center. Finally, if Slider 1 is found not to be the start of the work day, the Union argues that it begins at Slider 3. The Union claims that transiting through electronic screening, walking to posts while waiting for sliders, gates and grills to be opened are all compensable time pursuant to the continuous workday doctrine.

3. **Agency's position:** The Agency contends that a correctional officer's compensable day begins at the point where he (or she; I use the masculine here) receives the equipment or "gear" necessary to perform his duties:

The compensable day begins at the point where an employee receives the equipment necessary to perform their duties. Depending on the post or shift, that will either be at the Control Center or on the post itself.

Agency Brief at 2.

4. **Conclusion:** Under the Portal-to-Portal Act of 1947 enacted by Congress, as interpreted by the Supreme Court of the United States:
 - a. Mandatory security screening of correctional officers does not start their continuous workday because screening does not qualify either (i) as productive work that the officers are employed to perform, or (ii) as integral and indispensable to productive work.

- b. For officers who do not pick up their necessary equipment at the Control Center (see paragraph 3), neither is the continuous workday started by the officers' post-screening walking to where they pick up their equipment, passing through Sliders 1 through 3.

Hearing

5. I presided at a hearing in the above matter at the Federal Correctional Complex (FCC) at Pollock, Louisiana, pursuant to the Master Agreement ("MA") between the Federal Bureau of Prisons (the "Agency") and the American Federation of Government Employees, Local 1034 (the "Union"). See Joint Exhibit 1. The hearing was held over a period of 46 days on the following dates in 2014-2016:
 - a. Union's case in chief — 19 days: July 16-18, August 19-22, September 9-12, October 20-23, and October 28-31, 2014;
 - b. Agency's case in chief — 24 days: March 31-April 3, April 21-24, April 28 – May 1, June 9-12, June 16-19, and October 6-9, 2015;
 - c. Union's rebuttal — 2 days: December 7-8, 2015; and
 - d. Agency's rebuttal — 1 day: January 5, 2016.
6. The witnesses were sworn and (by agreement of the parties) were sequestered during the hearing. There were no issues of arbitrability. The parties agreed that the matter was properly before me for final and binding opinion and award.
7. Both parties had full opportunity to make opening statements, to examine and cross examine witnesses under oath, to offer exhibits, to raise objections on procedural rulings and otherwise to make known their respective positions and arguments on the issues involved in the grievance.¹

¹ The parties entered 153 joint exhibits; additionally, the Union entered 8 exhibits and the Agency entered 16 exhibits. These exhibits are listed in Appendix D of this award.

8. A court reporter transcribed the proceedings. The parties submitted post-hearing briefs,² which I received on March 28, 2017. The Union's Reply brief was received by July 3, 2017; the Agency did not submit a Reply brief.
9. The parties agreed that I would retain jurisdiction for the purpose of clarification or interpretation of any remedy issued, if necessary.
10. The grievance remains unresolved and is appropriately before me for final and binding award.
11. At the conclusion of the hearing, the parties agreed that the briefing would be bifurcated and the arbitrator would first decide liability, i.e. when and where does the compensable workday begin and what activities are compensable. The second round of briefing would cover the appropriate remedy, if any. *See* 1/5/16, Tr. at 102.
12. In reaching the decision below, I carefully considered the entire record in the case, all arguments made, and any arbitral citations, whether discussed or not.

Statement of the issue

13. The parties agreed to the following statement of the ultimate issue in this case:

Did the Bureau of Prisons Federal Correctional Complex (FCC) Pollock suffer and/or permit bargaining unit employees to perform work before or after their scheduled shift on the enumerated posts without compensation in violation of the Fair Labor Standards Act and the parties' Master Agreement? If so, what is the appropriate remedy?

Tr. 7/16/14 at 8.

14. The parties agree that the relevant time period covered by the grievance is from January 29, 2010 to the present. The stipulated posts are listed in Award Appendix B.
15. As noted in paragraph 1, this partial final award is limited to the specific issues of where the continuous workday starts and what activities are compensable.

² The Union's "brief" was 170 pages, including 101 pages of summaries of witness testimony, reminiscent of deposition summaries.

Preliminary matters

16. **Facilities Coordinator Post:** The Union abandoned its claim for the Facilities Coordinator post. *See 9/9/14, Tr. at 137.* There is therefore no liability for this post.
17. **Front Lobby AM and PM Officer:** The Union stated in its brief that the testimony of record indicates that the front lobby AM and PM officer did not work past the scheduled hours of duty. The Union therefore stated that there is no overtime claim for the front lobby AM or PM officer. *See Union Brief at 56.* There is therefore no liability for this post.
18. **Compound #1 Officer:** The Union stated in its brief that there was no testimony of record indicating that Compound #1 EW worked after their assigned hours of duty. *See Union Brief at 34.* There is therefore no liability for this post.
19. **The Agency's request for summary dismissal of certain posts:** At the opening of the Agency's case-in-chief, the Agency argued that the Union had failed to present any testimony regarding several posts and shifts, specifically: all shifts for Housing Unit A3 and A4; all shifts for Housing Unit B3 and B4; and all shifts for Housing Units C3 and C4. *See 3/31/15, Tr. at 29.*
20. The evidence indicates, though (and I find), that regarding correctional officers' compensable time, the housing units in question operate and conduct their shift changes in materially-similar fashion. *See testimony of Derek Garnett, 10/28/15, Tr. 16.* The Union provided sufficient representative testimony to render a determination on these posts.
21. Consequently, the testimony regarding the operations of Housing Units A1 and A2, B1 and B2, and C1 and C2 is probative of the operations at Housing Units A3 and A4, B3 and B4, and C3 and C4.

The Union's motion to exclude certain video recordings

22. Before the start of the hearing, the Union filed an information request with the Agency on April 8, 2013, requesting "video security footage used at FCI-Pollock and USP-Pollock including *footage of front entrances* and any other footage that would show when 'work' began and/or ended for bar-

gaining unit employees, including but not limited to *footage of the front entrance of both facilities.*" Union Exhibit 2 (emphasis added). There are over 100 cameras at each facility. See Joint Exhibit 133, tab 9.

23. In response to the Union's request, the Agency produced 391 gigabytes of video, all of which showed the *front entrances* of the FCI and USP. There was no video that captured the security screening. The parties mutually agreed to select one week of video to be used at the hearing and independently chose the same week of May 12-18, 2013.
24. On May 15, 2014, I issued a pre-hearing order which confirmed that the parties had independently selected the video recordings from the same week, that of May 12-18, 2013, to be introduced at the hearing.
25. At the beginning of the Union's rebuttal on December 7, 2015, Officer Jason Shannon testified that he had reviewed some of the May 12-18 video for the USP and FCI. See 12/7/15 Tr. at 16-17. Officer Richmond testified that he was given the task of reviewing the Agency's May 12-18 video of the front lobby and used it to prepare Union Exhibit 8. See 12/8/15, Tr. at 93-109. Neither party used any of the May 12-18 video recordings during the Union's presentation of its 2014 five-week case-in-chief.
26. Before the Agency began its own case-in-chief on March 31, 2015, the Agency advised the Union that it intended to use video from other security cameras at the FCI and USP for its case-in-chief and to rebut the testimony of Union witnesses. The Agency provided the Union with ten DVDs of videos in advance of the beginning of the Agency's case-in-chief. The Union objected and filed a motion to exclude video evidence on March 19, 2015. See Joint Exhibit 133, tab 3. The Agency responded and the parties participated in a conference call on March 23, 2015 to discuss their respective positions. See Joint Exhibit 133, tab 5. By email dated March 23, the Agency offered to provide the Union with other camera views that were still available, which was generally the previous 45 days. See Joint Exhibit 133, tab 7.
27. After hearing arguments from both parties, I issued a ruling allowing the admission of the videos. At the start of the Agency's case-in-chief on March 31, 2015, the Union renewed its motion to exclude the video evidence and I renewed my ruling allowing its admission. See 3/31/15 Tr. at 4-

10. The Union also raised the admissibility of the Agency's video evidence in their post-hearing brief and reply brief.
28. The Union's argument has consistently been that: (1) the parties supposedly agreed that they would only use the week of May 12-18, 2013 as video evidence presented at the hearing; (2) the Agency did not turn over all of the video showing when "work" begins or ends pursuant to the Union's April 8, 2013 information request; and (3) "it is not fair and it is not right to allow the Agency to take years to review and cherry pick video, and ultimately determine what video is relevant and reflective of the norm." See Joint Exhibit 133.
29. First: At the start of this matter in 2013, when the hearing was projected to last two-three weeks, the Union presumably knew, or at least it should have known, that FCC Pollock had more cameras than just those at the front lobby at each facility. In fact, Roger Christopher, computer services manager, testified that there were 350+ cameras at the USP alone. See 4/1/15 Tr. at 136. The Union's initial request for video footage focused on when work started and specifically mentioned including footage of front entrances. The Union has consistently contended that work starts at the front lobby where screening occurs. It is not incumbent on the Agency to guess where else the Union believes the workday starts. It therefore was not unreasonable for the Agency to provide video footage from the front lobby alone, which apparently amounted to some 391 gigabytes of video. Had the Union desired more video from other cameras showing other locations in either facility, it could easily have requested this with more specificity.
30. Second: The Union had from March 31, 2015 to review the video evidence that the Agency intended to use for its case-in-chief, which concluded on October 9, 2015. For the sake of argument, we can assume that the Agency should have interpreted the Union's initial request for video footage as encompassing footage of where *the Agency* believed that work began and ended. Even on that assumption, though, the Agency's initial failure to produce such additional responsive footage was cured sufficiently far in advance that it did not surprise the Union, nor did it impede the Union's ability to challenge the Agency's case.
31. Third: The Agency used the disputed video footage to challenge certain testimony by Union witnesses about time allegedly spent performing certain actions — in essence, the Agency used the

video footage to impeach those Union witnesses (albeit on grounds of unreliability, not untruthfulness). It is well-settled that evidence used solely for impeachment need not be disclosed in advance. It is worth noting that the Union itself entered as an exhibit video evidence that the Union used to cross examine Agency witnesses. See Union Exhibit 7 and the October 9, 2015 transcript generally.

32. In summary: The disputed video footage was highly probative and relevant. As the Agency stated in its March 20, 2015 email, the arbitrator may consider probative and relevant evidence and give it such weight as it merits. See Joint Exhibit 133, tab 5. For the reasons discussed above, and for the fourth time, the Union's renewed motion to exclude the video evidence is denied.

General factual background

33. **Overview of Federal Correctional Complex (FCC) Pollock:** FCC Pollock consists of three distinct facilities: (1) The United States Penitentiary (USP), a high security facility; (2) the Federal Correctional Institution (FCI); and (3) the camp, a low security facility. This grievance concerns only the USP and the FCI and the correctional officers who work specific posts to which the parties have stipulated. See Award Appendix B.
34. **Overview of posts and shifts:** Correctional officers work eight-hour shifts at both the USP and the FCI. Posts are designated as 24-hour posts, 16-hour posts, and 8-hour posts, reflecting how long per day the posts are staffed.
35. The 24-hour posts are staffed in a Morning (MW) from 12 midnight to 8 a.m.; a Day (DW) from 8 a.m. to 4 p.m.; and an Evening (EW) from 4 p.m. to 12 midnight.
36. As their 24-hour label suggests, these posts are manned 24 hours a day. Officers arriving for work at these posts do not stop at the Control Center to pick up equipment; instead, during shift change, the off-going officer turns over his (or her) equipment to the on-coming officer who is relieving him. See Award Appendix G.
37. The 16-hour posts are staffed only in an AM shift, from 6 a.m. to 2 p.m., and a PM shift, from 1:45 p.m. to 9:45 p.m. or 2 p.m. to 10 p.m., depending on the post. See Appendix G. For some posts, during the overnight period when those posts are not staffed, the officers' equipment (e.g., radios and handcuffs) is stored at the Control Center. For other posts, e.g., even-side housing units at

the FCI, the officer's keys and equipment are maintained at the housing unit, not the Control Center.

38. For 16-hour posts that maintain equipment at the Control Center, each on-coming AM officer stops at the Control Center to pick up his (or her) equipment; to be given his equipment, he must turn in one or more personal identification devices, known as "chits," so that Control Center personnel will know just who has taken which specific pieces of equipment.
39. Near the end of the AM shift, the on-coming PM officer stops at the Control Center; turns in his own chits; and is given the chits of the off-going officer who will be relieved. The on-coming PM officer then proceeds to the post and relieves the off-going AM officer; as part of the turnover, the off-going officer gives the on-coming officer his equipment in exchange for the off-going officer's chits. This allows the off-going officer to leave the facility without having to turn in equipment or chits at the Control Center.
40. (The testimony of record indicates that although this practice may vary from officer to officer, the above is the generally practiced procedure.)
41. For eight-hour posts, an on-coming officer stops at the Control Center at the beginning of his shift to exchange his chits for equipment. These posts have no relief, so at the end of a shift, the officer returns his equipment to the Control Center in exchange for his chits. *See Appendix G.*
42. **USP Pollock:** USP Pollock is a high security facility with recreation areas in the center of the compound. The USP houses approximately 1500 inmates. *See testimony of Brian Richmond, 7/16/14, Tr. 58-59.*
43. The USP housing units ("HU") A1 through 4, B1 through 4, and C1 through 4, are fenced to separate one from another and are built around the center compound. Each housing unit has its own fenced in recreation yard or area.
44. The USP recreation yards are separated by walkways or sidewalks with gates to control movement between the areas.

45. In the center of the USP compound is a tower (referred to as the Center Tower or Tower 8) staffed by armed officers; officers in the tower operate several of the gates between the various yards and walkways.
46. The parties stipulated as to the basic routes that most officers take to get to their USP Pollock posts. *See 8/20/14 Tr. at 6-7.*
47. **FCI Pollock:** FCI Pollock is a medium security facility. The inmates reside in Housing Units D1 through 4, E 1 through 4, and F1 through 4.
48. The odd-side housing units are manned 24 hours per day. The even-side housing units are manned 16 hours per day on 8-hour shifts.
49. The AM shift begins at 6 a.m. and ends at 2 p.m. The PM shift begins at 2 p.m. and ends at 10 p.m.
50. The parties stipulated the basic routes that most officers take to get to their FCI Pollock posts. *See 10/21/14 Tr. at 46-47.*

The relevant law

51. The parties agree that this grievance is governed by the Fair Labor Standards Act (FLSA), codified at 29 U.S.C. § 201 *et seq.*, as amended by the Portal-to-Portal Act of 1947, 29 U.S.C. § 251 *et seq.* The latter legislation exempts employers from liability for future claims for wages for two categories of work-related activities: (1) walking, riding, or traveling to and from *the actual place of performance* of the principal activity or activities which such employee is employed to perform; and (2) activities which are preliminary to or postliminary to said principal activity or activities. *See Appendix I.*
52. Also relevant are Office of Personnel Management (OPM) regulations, 5 C.F.R. Part 551, which apply to federal employees.
53. (Congress authorized the OPM to administer the FLSA for federal employees, *see* 29 U.S.C. § 204(f), but the Federal Labor Relations Authority (the “**Authority**”) appears to have followed the guidance of the Supreme Court and the Department of Labor regulations, *see* 29 C.F.R. Part 790, as discussed below. *See Appendix I.*)

54. The terminology used in statutes, regulations, and court- and administrative decisions can be confusing and sometimes seemingly-contradictory. The table below attempts to reconcile the different terminology and summarize whether or not an activity is compensable under these laws and regulations; see also the notes following for discussion of terms in quotation marks.

"Preparatory" activities		"Concluding" activities			
"Preliminary activities" (i.e., not "closely related")	Activities that are "closely related" to "productive work"			Activities that are "closely related" to "productive work"	"Postliminary activities" (i.e., not "closely related")
		Activities that are "integral and indispensable" to "productive work"	"Productive work" that the employee is employed to perform	Activities that are "integral and indispensable" to "productive work"	
		"PRINCIPAL ACTIVITIES"			
"Not compensable"	Not compensable unless part of the "continuous workday"	"Possibly compensable"	Compensable	"Possibly compensable"	Not compensable unless part of the "continuous workday"
					"Not compensable"

Notes:

Authority ten-minute rule: Under this Authority precedent, activities in this category are compensable only if they exceed ten minutes in a workday. See paragraphs 74-80 below.

Closely related: See 5 C.F.R. § 412. A "preparatory activity" that is not closely related to productive work is considered a "preliminary activity" and is not compensable; similarly, a "concluding activity" that is not closely related to productive work is considered a "postliminary activity" and is likewise not compensable.

Concluding: See 5 C.F.R. § 412.

Continuous workday: Begins with performance of the first "principal activity," and ends with performance of the last principal activity, of the workday. See paragraphs 69 et seq. below.

De minimis: A number of federal courts sometimes exclude compensation depending on: (1) the practical difficulty of recording the compensable time; (2) the aggregate amount of time at issue; and (3) the regularity with which the task is performed. See paragraphs 77 et seq. below.

Integral and indispensable: See paragraphs 61-68 below.

Not compensable: See 5 C.F.R. § 412(b).

Postliminary and preliminary: See 29 U.S.C. § 254(a)(2). Under 5 C.F.R. § 412(b), preliminary and postliminary activities are those preparatory and concluding activities that are not "closely related" to productive work (which is referred to in that subdivision as *principal activities*).

Preparatory: See 5 C.F.R. § 412; *Steiner v. Mitchell*, 350 U.S. 247, 255 & n.9 (1956).

Principal activities consist of (i) "productive work," and (ii) "preparatory" and "concluding" activities that are both "integral" and "indispensable" to productive work; see paragraphs 61-68 below.

Possibly compensable: These activities are compensable if they are:

- (i) more than *de minimis*, if following the “*de minimis*” court precedent discussed below; or
- (ii) more than ten minutes, if following the “Authority ten-minute rule” discussed below.

Productive work: This term refers to one type of “principal activity” recognized by the Supreme Court; see paragraph 61 below.

*The Supreme Court’s Integrity Staffing decision
eliminated “control” and “benefit of employer” analysis*

55. In its main brief, the Union acknowledged that the Supreme Court’s decision in *Integrity Staffing* rejected the “control or direction” of the Agency and the “for the benefit” of the Agency test. See Union Brief at 113-14. In its reply brief, however, the Union argues that the Supreme Court’s decision in *Integrity Staffing* supposedly did not affect the OPM regulations for government employees in general and prisons in particular. See Union Reply Brief at 4-5. The Union asserts that: “5 C.F.R. § 401 [*sic*; 551.401] could not be clearer. Hours of work must meet two tests: 1. Under the *control or direction* of the Agency, and 2. For the *benefit* of the Agency.” Union Reply Brief at 4 (paragraphing modified, emphasis added).
56. Certainly in *Integrity Staffing* the Supreme Court *implicitly* rejected the “control or direction” test when it *explicitly* rejected the “employer-required activity” test — which amounts to the same thing as “under the control or direction of the Agency” test asserted by the Union — and the Court likewise expressly rejected the “benefit” test:

If the [*integral and indispensable*] test could be satisfied merely by the fact that an employer *required* an activity, it would sweep into "principal activities" the very activities that the Portal-to-Portal Act was designed to address. ...

A test that turns on whether the activity is for the *benefit* of the employer is similarly overbroad.

Integrity Staffing Solutions, Inc. v. Busk, 574 U.S. ___, 135 S. Ct. 513, 519 (2014) (emphasis and extra paragraphing added), *reversing* 713 F.3d 525 (9th Cir. 2013).

57. It is not frivolous to argue that:
- a. The U.S. Government *as an employer* was free to independently select how compensable time would be measured, as long as the selected measurement complied with the FLSA;

- b. The OPM intended to make just such an independent selection when it promulgated the control-and-benefit test of 5 C.F.R. § 551.401, as opposed to merely complying with its obligation to implement the FLSA and the Portal-to-Portal Act;
- c. The Supreme Court's decision in *Integrity Staffing* meant only that the control-and-benefit test was no longer statutorily *required*; the Court's decision did not *prohibit* private- or public-sector employers from independently continuing to use that test to measure compensable time if they wished to do so; and
- d. Therefore (according to this argument), until such time as the OPM revises 5 C.F.R. § 551.401, all U.S. Government agencies must still comply with the control-and-benefit test of that rule, even though such compliance is no longer required by statute in view of *Integrity Staffing*.

58. Such an argument, while non-frivolous, is not persuasive. I found nothing in the regulations indicating that when the OPM promulgated the control-and-benefit test, it intended to independently select that test to govern compensable time, as opposed to simply complying with the OPM's duty to implement the FLSA and the Portal-to-Portal Act; on the contrary, the OPM seemed to make it clear that it was taking the latter course. See 5 C.F.R. 551.101, reproduced in Award Appendix I.

59. And the Authority seems to take the view that under the Supreme Court's holding in *Integrity Staffing*, the OPM's control-and-benefit test cited by the Union is no longer viable. For example, in an opinion concerning the federal prison facility at Lexington, Kentucky, the Authority — without so much as mentioning 5 C.F.R. § 551.401, on which the Union relies — remanded an arbitration award for further fact-finding in view of *Integrity Staffing*:

... We note that, to the extent that previous Authority decisions are inconsistent with the test set forth in *Integrity Staffing*, we will no longer follow the pertinent portions of those decisions. * * *

Here, the Arbitrator concluded that passing through security screening was an integral and indispensable part of the grievants' principal activities because (1) the Agency required the screening and (2) the screening benefitted the

Agency by preventing contraband from reaching secure areas. But, as discussed above, *Integrity Staffing* rejected similar reasoning.

FMC Lexington, 68 F.L.R.A. at 936-37 (2015) (remanding to arbitrator) (footnotes and some internal quotation marks omitted; emphasis, bracketed text, and extra paragraphing added); *see also FCI Bastrop*, 69 F.L.R.A. at 179-80 (2016) (remanding to arbitrator, with an essentially-identical discussion of *Integrity Staffing*).

*Compensable activities include both “productive work”
and “integral and indispensable” activities*

60. The “productive work” activities that the employee is employed to perform are considered “principal activities” within the meaning of section 4(a) of the Portal-to-Portal Act and thus are compensable under the FLSA. I use the label “productive work” here because, as discussed below, the Supreme Court has held that other activities, namely integral and indispensable activities, can also be “principal activities” under the statute. The label is adapted from the Court’s statement in *Integrity Staffing* that the integral-and-indispensable test is tied to “*the productive work that the employee is employed to perform.*” 135 S. Ct. at 519 (emphasis modified, citations omitted).
61. Some activities are not themselves productive work, but are nonetheless both integral and indispensable to productive work, so under the Portal-to-Portal Act and the FLSA, those activities are likewise compensable.³ The Supreme Court matter-of-factly noted in 2014 that such integral and indispensable activities are themselves considered “principal” activities for purposes of the Portal-to-Portal Act:

This Court has consistently interpreted the term “principal activity or activities” to embrace all activities which are an “integral and indispensable part of the principal activities.”

³ The Authority has essentially equated the OPM regulation’s term “*closely related* and indispensable,” *see* 5 C.F.R. § 551.412(a)(1) (emphasis added), with *integral* and *indispensable* as used by the Supreme Court, e.g., in *Integrity Staffing*. *See FCI Bastrop*, 69 F.L.R.A. 176, 179 & n.34-35, 180 (2016). It appears that the Authority now assesses work activities of the kind in question here by using the Court’s “integral” terminology instead of the OPM’s “closely related” wording, *see id.*; consequently, this award will use the same terminology.

135 S. Ct. at 517 (alteration marks and internal quotation marks omitted), *citing Alvarez*, 546 U.S. at 29-30 *and Steiner*, 350 U.S. at 252-53. In *Alvarez*, the Court had likewise reiterated the same point, that integral and indispensable activities are to be considered “principal” activities:

...in *Steiner* we made it clear that § 4 of the Portal-to-Portal Act does not remove activities which are integral and indispensable to principal activities from FLSA coverage precisely because *such activities are themselves principal activities*.

Alvarez, 546 U.S. at 34 (2005) (citation and internal quotation marks omitted, emphasis added), *quoting Steiner* 350 U.S. at 256. Later in the same opinion, the *Alvarez* Court said expressly that “[w]e hold that any activity that is ‘integral and indispensable’ to a ‘principal activity’ is itself a ‘principal activity’ under § 4(a) of the Portal-to-Portal Act.” *Alvarez*, 546 U.S. at 37.

62. The Authority has followed *Alvarez*, noting for example that “[a]ny activities that are integral and indispensable to an employee’s principal activity or activities are themselves principal activities under the Act.” *FCI Allenwood*, 65 F.L.R.A. at 999, *citing Alvarez and Steiner*.
63. One caveat about the “productive work” terminology — in its 2015 *USP Atwater* decision, the Authority *appears*, on first reading, to have changed its mind about following the Supreme Court’s lead in labeling integral-and-indispensable activities as themselves being “principal activities”:

In his award, the Arbitrator stated, as relevant here, that any preparatory activity that is indispensable and closely related to an employee’s principal activities is itself a principal activity, and is compensable under the FLSA. *[MCT comment: This is how the Supreme Court has repeatedly phrased its decisions.]*

However, Office of Personnel Management (OPM) regulations that implement the FLSA in the federal sector distinguish principal activities from preparatory activities for federal employees.

In this regard, the regulations state, as pertinent here, that “a preparatory activity that an employee performs prior to the commencement of his or her principal activities . . . [is] not [a] principal activity.” *[MCT comment: Taken out of context, this statement seems to reject the Supreme Court’s direction that “integral and indispensable” activities are to be considered “principal” activities; but see paragraphs 64-66 below for an alternative interpretation.]*

Although the Authority has previously made statements similar to the Arbitrator’s, the Authority has since clarified that it follows the OPM regulations.

Accordingly, in order to resolve the Agency’s exceptions, we reiterate here that, in the federal sector, a pre-shift activity that is “closely related” and “indispensable” to a principal activity is a preparatory activity – not a principal activity. However, preparatory activities are compensable if an employee performs them for more than ten minutes per workday. *[MCT comment: See the discussion below concerning the de minimis doctrine.]*

FCI Atwater, 68 F.L.R.A. at 858 & nn.21-22 (2015) (footnotes omitted, extra paragraphing added), citing, e.g., *FPC Bryan*, 67 F.L.R.A. at 238 (2014); see also *FCI Atwater*, 68 F.L.R.A. at 861 (same).

64. In both *FCI Atwater* and *FPC Bryan*, however, on the merits the Authority does not appear to have been rejecting the Supreme Court’s decisions about the proper interpretation of the Portal-to-Portal Act. Instead, the Authority appears to have been trying to reconcile the Court’s choice of terminology — specifically the Court’s decision to lump integral-and-indispensable activities in with “principal activities” — with the language of the OPM regulation.⁴
65. The Authority’s seeming concern for the Supreme Court’s choice of terminology is not unjustified. The Court’s labeling of integral-and-indispensable activities as themselves being “principal” activities (the term used in the Portal-to-Portal Act) has very likely led to confusion on the part of some readers.
66. Nevertheless, no small benefit can be gained by trying to harmonize Supreme Court precedent, the statutory language, and the OPM regulation. For that reason, this award divides the statutory category, “principal activities,” into the subcategories of “productive work” and “integral and indispensable activities,” both of which terms have been used by the Court, as noted above. The table accompanying paragraph 54 above shows how that revised labeling accommodates both the OPM regulation and the Authority’s precedent.

The meanings of “integral” and “indispensable”

67. In *Integrity Staffing*, the Supreme Court noted that in this context, the terms “integral” and “indispensable” are used in their ordinary sense:

... The word “integral” means belonging to or making up an integral whole; constituent, component; specifically *necessary to the completeness or integrity of the*

⁴ Incidentally: In footnotes in both *FCI Atwater* and *FPC Bryan*, the OPM regulation in question is miscited as 5 C.F.R. § 550.412; as noted in *USP Allenwood*, the correct citation is 5 C.F.R. § 551.412.

whole; forming an intrinsic portion or element, as distinguished from an adjunct or appendage; essential to completeness; constituent, as a part.

And, when used to describe a duty, “indispensable” means a duty that cannot be dispensed with, remitted, set aside, disregarded, or neglected; *not capable of being dispensed with*, set aside, neglected, or pronounced nonobligatory.

An activity is therefore integral and indispensable to the principal activities that an employee is employed to perform if it is [i] *an intrinsic element of those activities and [ii] one with which the employee cannot dispense if he is to perform his principal activities.*

Integrity Staffing, 135 S. Ct. at 517-18 (internal quotation marks and alteration marks modified; citations omitted; emphasis, extra paragraphing, and bracketed text added), *citing IBP, Inc. v. Alvarez*, 546 U.S. 21, 29-30 (2005) and *Steiner v. Mitchell*, 350 U.S. 247, 252-253 (1956).

68. This award focuses primarily on whether particular activities are *indispensable* to productive work, because:
- a. The definitions of *integral* and *indispensable*, as restated by the Supreme Court in *Integrity Staffing*, seem to overlap or even be duplicative.⁵
 - b. Moreover, asking whether a particular activity is “integral” to productive work seems to be a philosophical question, or even an aesthetic one, not unlike asking whether fireworks are integral to a Fourth of July celebration.
 - c. This award takes a pragmatic approach, namely deferring the question of integral-ness, and instead asking first whether a particular activity is *indispensable* to productive work; if the answer is no, then there is no need to proceed any further for that activity.

*Compensable activities additionally include
activities during the continuous workday*

69. Under the continuous-workday doctrine, work activities that take place between the first and last “principal” activities of the workday are compensable — and importantly, the Supreme Court has said that integral and indispensable activities start the clock running for a continuous workday,

⁵ It seems possible that *integral and indispensable* were intended by the congressional drafters to serve as a “doublet,” that is, a pair of synonyms along the same lines as, e.g., *agree and covenant*, or *by and between*. For a discussion of doublets, see generally BRYAN A. GARNER, A DICTIONARY OF MODERN LEGAL USAGE (3d ed. 2011).

just as do productive work. In *Alvarez*, the Court rejected an employer’s assertion that a continuous workday would not start until an employee had engaged in productive work:

IBP has not offered any support for the unlikely proposition that Congress intended to create an intermediate category of activities that would be sufficiently “principal” to be compensable, but not sufficiently principal to commence the workday.”

Alvarez, 546 U.S. at 34. After announcing its ruling that integral and indispensable activities were themselves “principal” activities, the *Alvarez* Court concluded that such activities could indeed mark the start of a continuous workday:

For the foregoing reasons, we hold that any activity that is "integral and indispensable" to a "principal activity" is itself a "principal activity" under § 4(a) of the Portal-to-Portal Act.

Moreover, during a continuous workday, any walking time that occurs after the beginning of the employee's first principal activity and before the end of the employee's last principal activity is excluded from the scope of that provision, and as a result is covered by the FLSA.

Alvarez, 546 U.S. at 37 (extra paragraphing added).

70. The Authority has followed this holding, for example in *Lexington*. See 68 F.L.R.A. at 937, text accompanying n.67 (citing *Alvarez*).
71. And in its *Bastrop* decision, the Authority specifically explained (in somewhat of a circular definition) that the continuous workday is bookended by *compensable* activities, not just by productive work only:

Finally, even if an activity is not a principal activity or integral and indispensable to the performance of principal activities, it may nevertheless be compensable under the continuous-workday doctrine. Under that doctrine, activities that take place between the first and last *compensable* activities of the day — including those that otherwise would be non-compensable under the FLSA — are compensable because they occur during the continuous workday.

Bastrop, 69 F.L.R.A. at 179-80 (emphasis added, footnotes omitted).

Not compensable: "Preliminary" and "postliminary" activities

72. Section 4 of the Portal-to-Portal Act specifically exempts, from the compensation requirements of the FLSA, time spent on:

- (1) activities occurring before the workday's first "principal" activity — which term, as noted above, under *Alvarez* encompasses both (A) productive work and (B) activities that are both integral and indispensable to productive work; and
- (2) activities occurring after the workday's last principal activity.

73. In the same vein, a 1983 OPM regulation states that:

(b) A preparatory or concluding activity that is not closely related to the performance of the principal activities is considered a preliminary or postliminary activity. Time spent in preliminary or postliminary activities is excluded from hours of work and is not compensable

5 C.F.R. § 551.412(b).

*A possible problem: The Authority's bright-line,
ten-minute prerequisite appears to clash with Alvarez*

74. Several Authority cases hold that 5 C.F.R. § 551.412(a)(1) supposedly prohibits compensation for preparatory- or concluding activities that do not exceed ten minutes per workday. *See USP Leavenworth*, 59 F.L.R.A. at 598 (2004). As recently as 2014, the Authority reiterated its view that:

Section 551.412(a) states that *a preparatory activity is not compensable unless the total time spent in that activity is more than ten minutes per workday. ... [A]n award entitling employees to overtime compensation for performing preparatory or concluding activities for ten minutes or less per workday is contrary to § 551.412(a)(1). ...*

FPC Bryan, 67 F.L.R.A. at 238 (reversing arbitrator ruling that equipment exchange was a principal activity, and setting aside arbitrator's award of five minutes of overtime) (emphasis added, alteration marks by the Authority and footnotes omitted). *Accord, FCI Tallahassee*, 68 F.L.R.A. at 865 (remanding to arbitrator).

75. It is not apparent how the Authority's blanket, "not compensable" interpretation of section 551.412(a) can be reconciled with the Supreme Court's *Alvarez* decision. As discussed above, in *Alvarez* the Court held that the FLSA makes compensation mandatory for preparatory activities,

as long as those activities are both integral and indispensable to productive work. The Authority's interpretation of the regulation seems problematic in two ways, which will be discussed in the next few paragraphs.

76. First: Section 551.412(a)(1), by its terms, does not prohibit anything; on the contrary, the provision *requires* compensation for activities that do exceed ten minutes per workday:

(a) (1) If an agency reasonably determines [i] that a preparatory or concluding activity [x] is closely related to an employee's principal activities, and [y] is indispensable to the performance of the principal activities, and [ii] that the total time spent in that activity is more than 10 minutes per workday, [then] the agency shall credit all of the time spent in that activity, including the 10 minutes, as hours of work.

5 C.F.R. § 551.412, *adopted at* 48 Fed. Reg. 36805, Aug. 15, 1983 (italicized bracketed text added).

77. By its plain language, section 551.412(a)(1) simply establishes a bright-line outer limit for the application of the *de minimis* rule, under which federal-sector employees need not be compensated for work that is not worth the effort of recording it. The *de minimis* rule is alive and well, according to a 2011 decision by a federal district court:

Several circuits have now agreed that courts applying the *de minimis* rule should consider three things: (1) the practical difficulty of recording the compensable time, (2) the aggregate amount of time at issue, and (3) the regularity with which the task is performed. *Rutti v. Lojack Corp.*, 596 F.3d 1046, 1056-57 (9th Cir. 2010); *De Asencio v. Tyson Foods, Inc.*, 500 F.3d 361, 374 (3d Cir. 2007); *Gorman v. Consol. Edison Corp.*, 488 F.3d 586, 594 n. 7 (2d Cir. 2007); *Brock v. City of Cincinnati*, 236 F.3d 793, 804 (6th Cir. 2001); *Reich v. Monfort, Inc.*, 144 F.3d 1329, 1333 (10th Cir. 1998); *Bobo v. United States*, 136 F.3d 1465, 1468 (Fed. Cir. 1998). Most courts have found that tasks that take less than 10 minutes each working day are *de minimis*. *Lindow v. United States*, 738 F.2d 1057, 1062 (9th Cir. 1984) (collecting cases); *see also Carter v. Panama Canal Co.*, 314 F. Supp. 386, 392 (D.D.C. 1970) (15 minutes is *de minimis*).

Lesane v. Winter, 866 F. Supp. 2d 1, 7-8 (D.D.C. 2011) (denying Secretary of the Navy's motion for summary judgment) (extra paragraphing added).

78. This case law lends support to the view that the purpose of section 551.412(a)(1) is not to establish a minimum of ten minutes for compensability — on the contrary, as another federal court put

it, the purpose of that provision is to “*limit[] the application of the de minimis doctrine to periods of 10 minutes or less per day.*” *Abbey v. United States*, No. 07-272C, slip op. at 13 (Fed. Cl. Dec. 1, 2015) (granting in part plaintiffs’ motion for summary judgment) (citations omitted, emphasis added). That is: if particular federal-sector work activities amount to more than ten minutes per day, then under section 551.412(a)(1), the agency is *prohibited* from using the *de minimis* rule to avoid paying workers for those activities.

79. Second: A rigid application of the ten-minute rule, in place of the more-flexible *de minimis* rule, could lead to workers regularly working extra time for free and thereby being deprived of the compensation to which they were entitled by law. As the *Lesane* court observed:

The Office of Personnel Management, which handles wages of federal civilian employees, has adopted a 10-minute rule by regulation. 5 C.F.R. § 551.412(a)(1).

However, a bright-line ten minute rule might not be faithful to the three-part test for determining whether a given activity is *de minimis*.

If an employee spends exactly nine uncompensated minutes every day on compensable activities, the time is *de minimis* under the bright-line rule *but perhaps compensable under the three-part test*.

Lesane, 866 F. Supp. 2d at 8 (emphasis and extra paragraphing added).

80. In several of the analyses below, the *de minimis* rule is applied, as well as, for completeness, the Authority’s bright-line ten-minute prerequisite rule.

*Can de minimis compensable activities
start the continuous workday?*

81. In some circumstances, a workday “startup” activity, such as security screening; donning of duty belts; or picking up equipment, might: (i) be shown to be integral and indispensable to productive work, but (ii) qualify as *de minimis* as discussed in paragraphs 74 et seq. above, and then (iii) be followed by several minutes of transit time that would otherwise be non-compensable.

82. The question would then arise: Would that *de minimis* initial activity be enough to start the clock running on the continuous workday?
- a. This question need not be addressed for security screening and donning and doffing of duty belts, given the factual findings below that none of those activities is integral and indispensable to productive work.
 - b. Nor need this question be addressed for posts where officers pick up their equipment at the Control Center, given that the Agency has agreed that the compensable workday starts at equipment pickup. See paragraph 3 above.

Here, the “productive work” is performed *at the post*

83. The General Post Orders for the USP and those for the FCI are informative and were cited by each party in seeking to establish the activities that correctional officers are employed to perform.
- a. Quoting from the General Post Orders, the Union says that “the most important function of the Correctional Officer is the maintenance of security, control, and accountability of inmates” and that the “primary job duty and responsibility is the ‘safety and security of the institution.’” Union Brief at 132, *quoting* 2014 General Post Order, Joint Exhibit 5 (Union underlining omitted).
 - b. Quoting from the same General Post Orders, the Agency contends that the primary function of a correctional officer is the “detention of persons committed to the custody of the Attorney General.” Agency Brief at 19; 2014 General Post Order, Joint Ex. 5.
84. These General Post Orders, though, are very broadly written and are intended to apply to the entire institution. All versions emphasize that the “maintenance of security, control and accountability of inmates” is the most important function of the correctional officer. And as the Union has stated in its brief, that is the overall job of every prison employee, from the warden on down. See Union Brief at 132.
85. I find that the productive work that correctional officers are employed to perform can be described as *maintaining the security, control, and accountability of the inmates*.

86. I also find, however, that the correctional officers in question here normally engage in this productive work when they are at their posts and not while they are elsewhere in the facility. An officer might occasionally be called on to correct a prisoner while within the secure facilities or to help respond to a body alarm. But the evidence of record does not establish that correcting inmates is more than *de minimis*; that activity does not seem to take more than seconds when it does occur, and it likely would be difficult to record that time when spent. Responding to emergencies might indeed be more than *de minimis* when it occurs, but the evidence tends to show that if an officer advises his lieutenant that he responded to the emergency when he was not on duty, he will be compensated for that time. *See, e.g.*, Farmer testimony, 7/17/14 Tr. 136-37; Paulk testimony, 8/21/14 Tr. 102.

Assessing specific activities for compensability

87. The next task is to examine the specific activities cited by the Union to assess whether those activities are compensable under the FLSA. I address these activities in roughly the chronological order in which they occur during a typical workday.

Mandatory security screening at USP and FCI Pollock

88. The first activity in question is security screening, which is mandatory for all arriving officers, visitors, and staff — that is, anyone who enters the secured area of the USP or FCI. The Union asserts, and the Agency does not disagree, that the Authority has not given a definitive answer as to whether security screening itself should count as a principal job activity — or, in the terminology used here, whether screening is either (i) productive work or (ii) integral and indispensable to productive work. *See* Union Brief at 135.

89. The productive-work inquiry is straightforward: I find, and indeed it seems almost self-evident, that correctional officers are not employed to undergo security screening.

90. The inquiry thus turns next to whether screening is *indispensable* to productive work and, if so, whether it is *integral* to productive work.

91. I agree with the Union on one point here: While the Supreme Court held in *Integrity Staffing* that security screening *in a warehouse* was not an integral or indispensable activity, security screening *in a prison* is different: Warehouse employees are not hired to prevent theft, which was the point

of the screening in *Integrity Staffing*, whereas prison correctional officers *are* hired to maintain security, control, and the accountability of inmates; I find it to be more likely than not that security screening contributes to this endeavor.

92. But that does not necessarily mean that security screening *of correctional officers* is *indispensable* to maintaining the security, control, and accountability of inmates. The necessity of screening officers upon entry might well vary with the type of facility. For example, screening of officers might be more important in a high-security facility than in a medium- or low-security facility — or, for all that the record shows, it could be the other way around.
93. The Union has not shown it to be more likely than not that security screening *of correctional officers* is indispensable to maintaining the security, control, and accountability of inmates *in facilities of this type*. (As a result, there is no need to assess whether security screening is integral to that productive work.)
94. Arguing to the contrary, the Union relies heavily on the findings of Arbitrator Zane Reeves in the *Bastrop* case. There, on remand from the Authority, Arbitrator Reeves determined that security screening was indeed indispensable because without screening, officers could not perform principal activities *safely and effectively*.
95. To support his use of the phrase “safely and effectively” as factors to consider in determining indispensability, Arbitrator Reeves cited the reasoning in Justice Sotomayor’s concurring opinion in *Integrity Staffing*, which was joined by Justice Kagan:

As both Department of Labor regulations and our precedent make clear, an activity is “indispensable” to another, principal activity only when an employee could not dispense with it without impairing his ability to perform the principal activity safely and effectively.

Thus, although a battery plant worker might, for example, perform his principal activities without donning proper protective gear, he could not do so safely, see *Steiner v. Mitchell*, 350 U.S. 247, 250-253, 76 S. Ct. 330, 100 L. Ed. 267 (1956)[.]

[L]ikewise, a butcher might be able to cut meat without having sharpened his knives, but he could not do so effectively, see *Mitchell v. King Packing*

Co., 350 U.S. 260, 262-263, 76 S. Ct. 337, 100 L. Ed. 282 (1956); accord, 29 CFR § 790.8(c).

Integrity Staffing, 135 S. Ct. at 520 (Sotomayor, concurring) (extra paragraphing added).

96. Justice Sotomayor’s safely-or-effectively reasoning is not lacking in appeal. But the majority opinion in *Integrity Staffing* mentioned neither safety nor effectiveness as factors to be weighed in determining whether activities other than productive work are compensable.
97. It is possible that, in some future case, a majority of the Supreme Court might adopt the Sotomayor view on that issue. In the meantime, I must follow the law as announced by the Court’s majority.
98. The *Allenwood* and *Bonilla* cases cited by the Union, and the oft-cited *Gorman* case — all of which were decided prior to *Integrity Staffing* — indicate that benefit to the employer was a factor that was considered. This is a broader test than that which the Court allowed in *Integrity Staffing*; this severely limits the authoritativeness of those prior arbitrators’ decisions.
99. And even in *Allenwood*, the Authority noted that:

Courts that have addressed this issue consistently have held that time spent participating in *security screening is not compensable time* under the FLSA.

See Bonilla, 487 F.3d at 1345 (concluding that time spent going through airport security to report to work was not compensable under the FLSA);

Gorman, 488 F.3d at 592-93 (holding that while security procedures including ‘waiting in line and passing through a radiation detector, x-ray machine, and explosive material detector’ were necessary ‘in the sense that they were required and serve the essential purpose of security,’ they were not ‘integral’ to the nuclear power station’s employees’ principal activities and therefore not compensable).

Allenwood, 65 F.L.R.A. at 999 (emphasis and extra paragraphing added).

100. Similarly, other arbitration awards issued after *Integrity Staffing*, while not binding precedent here, have nonetheless concluded that mandatory security screening is not a principal activity:
- a. In *FCI El Reno*, the arbitrator found that the Union had failed to establish that officers would be unable to accomplish their principal activity of securing the prison without the security screening. In addition, the evidence supported a finding that the security screening took on average between two and three minutes. *FCI El Reno*, slip op. at 25-28.
 - b. In *FCI Manchester*, the arbitrator stated that “it cannot be concluded that screening is primary (sic) job activity or is an intrinsic element of the principal activities that the grievants are employed to perform and one with which the correction officers cannot dispense if they are to perform their principal activities.” *FCI Manchester*, slip op. at 74. Arbitrator Sellman noted that everyone entering the institution was screened and that the officers could still perform the primary functions of their job if they did not participate in the screening. “Stated another way, the evidence does not support a finding that the officer would be unable to accomplish their principal activity of securing the prison without the security screening.” *Id.*
 - c. To like effect were *FCI Danbury* (2017); *FCI La Tuna* (2017); *FCC Beaumont* (2017); and *FTC Okla. City* (20160).
 - d. And in his dissent in *FCI Tallahassee*, Authority member Pizzella (who is now acting chairman of the Authority) was dubious that passing through security screening would qualify as a compensable activity under *Integrity Staffing*. See *FCI Tallahassee* 68 F.L.R.A. at 866 (Pizzella, M., dissenting). (Mr. Pizzella dissented from remanding to the arbitrator on grounds the arbitrator had already found that the officers spent only five or ten minutes per shift performing compensable preparatory activities; thus, according to Mr. Pizzella, under the OPM’s ten-minute rule as interpreted by the Authority [see paragraphs 74 et seq], those activities were not compensable in any case.)
101. Finally, as discussed beginning at paragraph 142 et seq., the evidence did not establish that security screening requires more than a *de minimis* amount of time under that judicially-created exception to the FLSA (see paragraphs 77-79 above). While submitting to security screening is certainly a regularly-performed activity, the Union did not show that the aggregate amount of time required (even including waiting time at shift change) was regularly even three to five minutes

(depending on the time of day), let alone the 10- to 15 minutes that has been held to be *de minimis* in prior cases as noted above. Nor does the record suggest that it would be practicable to record the compensable time spent in screening or in waiting for screening. Finally, to the extent that the Authority's ten-minute bright line rule can validly be applied (see paragraphs 74 et seq.), the record does not show that security screening takes more than ten minutes.

102. Findings: I find that mandatory screening is neither (i) an activity that officers are employed to perform, i.e., not productive work, nor (ii) integral and indispensable to such activities. Mandatory screening therefor is not compensable, nor does it start the continuous workday for the officers being screened.

Donning & doffing of duty belts at USP and FCI Pollock

103. During the hearing, considerable testimony was adduced regarding the donning and doffing of duty belts. While the Agency's brief discusses whether this is a compensable preliminary activity, the Union brief does not. This omission tends to indicate that the Union has now abandoned its claim that the compensable continuous workday begins and ends when the officer dons and doffs his duty belt.
104. For the sake of completeness, though — and in view of the amount of hearing time that the Union chose to spend on this activity — I will discuss whether the donning and doffing of duty belts is a compensable activity sufficient to start and stop the continuous workday.
105. In *Allenwood*, decided before *Integrity Staffing* but still good law in certain respects,⁶ the Authority remanded an award to the arbitrator to determine:
- a. whether the donning of the duty belt is an activity that is integral and indispensable to officers' principal activities, including, among other things, whether the duty belt is a type of unique protective gear;

⁶ The *FCI Allenwood* decision applies the test of whether the activity was performed for the benefit of the employer, which the Authority no longer follows after *Integrity Staffing*. In addition, *FCI Allenwood* noted that activities that are integral and indispensable to the employee's principal activities are themselves principal activities under the Act. See 65 F.L.R.A. at 1000. (*USP Atwater I* appears to have rejected that framing, but in context the rejection is best read as a difference of terminology and not of substance, as discussed in paragraphs 63-66 above.)

- b. if so, whether officers are required to don the belt immediately after passing through screening; and
- c. whether officers engage in principal activities during their travel from the security screening to the Control Center.

See FCI Allenwood, 65 F.L.R.A. at 1001.

106. From the evidence here, I find that:
- a. While most officers do wear duty belts, the Agency does not require them to do so.
 - b. Duty belts are not unique protective gear. Officers may buy duty belts of various materials, styles and types as they wish and from whatever source they wish.
 - c. The Agency does not require the officer to don the duty belt at any particular time; in fact, the video evidence offered by the Agency showed numerous instances of officers walking to their posts with duty belts attached to their backpacks, or over their shoulders, or carrying them.
107. The Union did not show it to be more likely than not that the donning or doffing of duty belts was either:
- a. productive work that the officer is employed to perform; or
 - b. an activity that is integral and indispensable to productive work — officers could dispense with this activity and still perform their productive work.
108. Finally, as discussed beginning at paragraph 142 et seq., the evidence did not establish that the time required to don or doff a duty belt took more than a few seconds, meaning that the required time does not exceed a *de minimis* level under that judicially-created exception to the FLSA (see paragraphs 77-79 above). And to the extent that the Authority's ten-minute bright line rule can validly be applied (see paragraphs 74 et seq.), the record does not show that donning or doffing duty belts takes longer than ten minutes. (Arbitration decisions in accord with this conclusion include *FCI Manchester* and *FCC Beaumont*, cited in paragraph 100.)

109. I therefore find that neither the donning nor the doffing of duty belts:
- a. is an activity that officers are employed to perform — that is, neither donning nor doffing is productive work;
 - b. is integral and indispensable to productive work;
 - c. takes more than a *de minimis* time, or alternatively, more than ten minutes.
110. Consequently, neither the donning nor the doffing of duty belts is compensable, nor does either activity start or end the continuous workday.

Transiting through Slider 1 through 3 at USP and FCI Pollock

111. The Union asserts alternatively that the continuous workday begins when an officer coming on duty, after clearing mandatory security screening in the front lobby, arrives at a sliding door, referred to as “Slider 1,” and passes through a sally port, which contains the Control Center and is bounded by another sliding door, “Slider 2.” These sliding doors are operated by Control Center staff.⁷ Slider 2 opens to a walkway, referred to as “no man’s land,” at the other end of which is another slider, Slider 3. See Union Brief at 140.
112. Before the Control Center staff opens Slider 1, Slider 2 must be closed, and vice versa, to ensure that no one runs from the front lobby straight through into the secure area of the USP or the FCI.
113. When the Control Center staff opens Slider 1, the officer passes through that slider and thereby enters the sally port. Depending on the time of day, the officer might have to wait briefly for the Control Center staff to open Slider 1; even so, for purposes of this award I find it more likely than not that the officer’s arrival time at Slider 1 is essentially identical to his arrival time at the Control Center.
114. Once the officer is in the sally port and at the Control Center, he shows his identification badge to the Control Center staff. For some posts and shifts, the officer also picks up necessary equipment

⁷ The operation of the sliders is reminiscent of the 1960s TV show *Get Smart*: in the opening credits, the title character walks through a series of sliding doors, which open as he approaches and then slam shut after he passes through. For a video clip, see <https://www.youtube.com/watch?v=Kv3kcnI72Ec>.

at the Control Center (this variation is discussed below). Either way, the officer approaches Slider 2, which the Control Center staff opens after the staff has closed both Slider 1 and Slider 3.

115. After the officer has passed through Slider 2, the Control Center closes that slider behind the officer and opens Slider 3, allowing the officer to proceed through that slider and then to approach Slider 4.
116. The Union notes that Agency witnesses testified that they might need to ask Control to hold up Slider 1 or 2 to keep an outgoing officer from leaving because the officer was needed for a mandatory overtime assignment. The Union's brief does not indicate that this was a regular occurrence but instead cites testimony from Agency witness Lt. English that the longest she believed she's ever asked to have the sliders held was four to five minutes. See Union Brief at 143.
117. Importantly, for officers who do not pick up equipment at the Control Center (in the sally port between Sliders 1 and 2), the entire passage from the front lobby, through Sliders 1, 2, and 3, and onward to their posts, is essentially a transiting activity.
118. The Union's rationale for having the continuous workday start at Slider 1 is that (A) once an officer has passed through Slider 1 to enter the sally port, the officer is now under the control of the Agency, because Sliders 1 and 2 can only be opened by staff at the Control Center; and (B) the officer has entered the secured confines of the facility. See Union Brief at 141.
119. But in *Integrity Staffing* the Supreme Court implicitly disapproved of the "control of the employer" test. See paragraph 56 above. Under the test approved in *Integrity Staffing*, for the continuous workday to start at Slider 1, as the Union urges, the officer must be engaged, at that time, either (i) in productive work that the officer is hired to do — which is not the case, given the finding above that such work begins at the officer's post — or (ii) in an activity that is indispensable and integral to that work.
120. (As noted in paragraph 3, the Agency has conceded that for officers who pick up their equipment at the Control Center, *their* continuous workday starts at that time; picking up equipment qualifies as "integral and indispensable" to productive work, but in view of the Agency's concession on this point, there is no need to address whether it is *de minimis* and therefore might not start the continuous workday after all.)

121. On the facts here, the possibility that an officer's walking through the sally port and over the no man's land walkway is somehow "integral and indispensable" is ruled out by the Supreme Court's decision in *Integrity Staffing*, where the Court said:

If the [*integral and indispensable*] test could be satisfied merely by the fact that an employer required an activity, it would sweep into "principal activities" the very activities that the Portal-to-Portal Act was designed to address.

The employer in *Anderson*, for instance, required its employees to walk from a timeclock near the factory gate to a workstation so that they could begin their work, but it is indisputable that the Portal-to-Portal Act evinces Congress' intent to repudiate *Anderson's* holding that such walking time was compensable under the FLSA.

135 S. Ct. at 519 (extra paragraphing added, citations and internal quotation marks omitted).

122. I find that, while an officer's transiting the sally port and the no man's land walkway, moving successively through Slider 1 and Slider 2 and then to Slider 3, contributes to the facility's maintaining of security, that activity is not integral and indispensable to the officer's productive work, as required by *Integrity Staffing*, and so it does not start the officer's continuous workday.
123. Finally, as discussed beginning at paragraph 142 et seq., the evidence did not establish that the time required to transit the sally port and the no man's land walkway was more than *de minimis* under that judicially-created exception to the FLSA (see paragraphs 77-79 above), for the same reasons as noted above for mandatory security screening (see paragraph 101). And to the extent that the Authority's ten-minute bright line rule can validly be applied (see paragraphs 74 et seq. above), the record does not show that passing through the sally port requires more than ten minutes.
124. In support of its position on this issue, the Union cites the 2009 arbitration award in *USP Pollock*, at 4. That earlier *Pollock* award, though, is distinguishable: the award was issued in 2009, before the Supreme Court's *Integrity Staffing* decision, and in any case the facts here are different in that changes at the Pollock institution have been made since that earlier award was issued.
125. *First*: Arbitrator Wetsch appears to have counted passing through the Control Center check point and traveling to the duty post as one activity as she found that this was "an activity that is integral and indispensable to the principal activities of the employees." *FCC Pollock* at 4. Arbitrator

Wetsch found that once employees passed through the Control Center, they were locked in the facility and on alert. Her analysis references an OPM regulation defining the “hours of work” as “waiting time or idle time which is under the control of an agency and which is for the benefit of an agency.” See 5 C.F.R. § 551.401.

126. But as noted in paragraph 56 above, in *Integrity Staffing* the Supreme Court rejected both the “control” and the “benefit” tests. And in the time since *Integrity Staffing* was handed down, the Authority appears to have consistently remanded cases back to arbitrators when the award was based on the “benefit of the agency” factor.
127. *Second:* Arbitrator Wetsch further found that for an officer who does not pick up equipment at the Control Center, “the start of work-related duties, such as observing inmates,” begins with the officer’s entry through the Control Center, because officers must remain vigilant at all times; she also found that the end of the continuous workday occurs when the officer passes through the Control Center. See *FCC Pollock* at 5. For the reasons stated above, I disagree.
128. Finally, just because an officer happens to be in a secure area, that does not necessarily mean that he is engaging in either productive work or an integral and indispensable activity. Suppose, for example, that an officer comes to work early; passes through security screening, the sally port, and the no man’s land walkway; and then spends 15-20 minutes getting a cup of coffee and making small talk with other officers before finally reporting to his post. That time would not be compensable, as the Union acknowledges. See Union Brief at 32 n.180. Consequently, the mere fact that an officer comes to work early or leaves late does not help the Union meet its burden of proof here.
129. Also in support of its sally-port position, the Union cites the 2016 arbitration award in *FCC Tucson*. In that case, Arbitrator Hauck determined that the first and last principal work activity for non-relief officers or key line officers occurred at the moment when the officer arrived at the Control Center at the start of the shift and ended when the key line officer cleared the Control Center at the end of shift. See *FCC Tucson* at 25. Arbitrator Hauck was convinced by the Union’s corroborative testimony that the primary activity for relief or non-key line officers began and ended when the officer passed the sally port at the Control Center and continued as the officer transited to

and from his or her post and included but was not limited to responding to body alarms, addressing inmate behavior, confiscating weapons and contraband, stopping fights, making sure that illegal activity was not occurring, and listening to legitimate inmate questions. *See FCC Tucson* at 27.

130. Arbitrator Hauck found that the Agency's still camera shots and testimony were of little help because the Agency's explanation based on the camera shots and alleged compliance with Agency policy was not adequately cross confirmed by the record. Rather, Arbitrator Hauck found that the Union provided ample corroborative testimony and evidence to verify that regardless of the camera shots and policy, the officers performed the pre-shift and post-shift primary activities routinely and continuously for periods of time exceeding ten minutes. Here, though, the evidence was significantly different, as discussed in paragraphs 142 et seq., addressing the evidence concerning the time required for various activities.

*Exiting the no man's land walkway at Slider 3
into the secured confines and walking to post at USP and FCI Pollock*

131. Finally, the Union asserts that a correctional officer's continuous workday starts, at the latest, when the officer exits the no man's land walkway, approaches and passes through Slider 3, and then passes into the secured confines of the facility to walk the rest of the way to his post. Likewise, the Union asserts that the continuous workday ends, at the earliest, when the officer leaves the secured confines of the facility through Slider 3 and returns to the no man's land walkway. See Union Brief at 144-150.
132. Walking to a post, by itself, is not a compensable activity, and in fact is expressly excluded by the Portal-to-Portal Act from the mandatory compensation provisions of the FLSA. As noted by the Authority in *Atwater*:

Generally, under the Act, the time that an employee spends traveling to his or her post is not compensable unless the employee is required to engage in a principal activity during that travel.

68 F.L.R.A. at 859 (footnote omitted).

133. The Union reasons, though, that while the officer is walking through the compound, he is monitoring and interacting with inmates.⁸ See Union Brief at 144.
- a. The Union correctly notes that General Post Orders for the USP and FCI emphasize that officers must be aware of breaches of security and rule violations so that they may be corrected. The General Post Orders state that “the officer on duty in the institution must be extremely alert.” Joint Exhibit 5 (USP General Post Orders) and Joint Exhibit 84 (FCI General Post Orders).
 - b. The Union asserts that interacting with inmates, correcting inmate behavior, remaining vigilant, and responding to body alarms or other emergencies are principal activities. See Union Brief at 103-105.
134. There was much testimony from officers who claimed that they and their colleagues routinely monitored and corrected inmates while they (the officers) walked to and from their posts. Most of the officers who testified contended that they corrected inmate behavior, e.g., telling inmates to tuck in their shirts or to stay off the fence, and responded to body alarms and other emergencies while they walked to their post.
135. But the hours of video evidence presented at the hearing strongly suggested otherwise. In the video excerpts, time and again officers walking to their posts could be seen not acknowledging inmates; not moving inmates off the fences; or seemingly unaware that inmates were walking behind them or were in prohibited areas in the sally port of a housing unit. See Agency Exhibits 2 and 3 (videos).

⁸ The Union also contends, in the alternative, that an officer’s continuous workday must be considered to begin no later than when the officer exits the no man’s land walkway into the secured area because the officer continues to be under the control of the Agency. See Union Brief at 168. But as noted in paragraph 56 above, in *Integrity Staffing* the Supreme Court implicitly rejected the “control of the employer” test asserted by the Union.

As another alternative, the Union argues that once an officer enters the secured confines, he is not able to leave. See Union Brief at 141-143. Certainly, the Union is correct that on-duty officers are not to leave their posts until relieved (if their posts require relief). The evidence, though, did not indicate that once an officer coming on duty has exited the no man’s land walkway, he too is an inmate.

136. Certainly, the evidence was not sufficient to show that responding to body alarms or correcting inmate behavior was a daily or regular activity; if anything, the evidence showed that such activities by officers was *de minimis* under the standard discussed in paragraphs 77 et seq. above.
137. (This video evidence did not enhance the perceived reliability of the Union's witness testimony on other subjects; see paragraphs 142 et seq. below for an extended discussion of the disparities between the video evidence versus officer testimony.)
138. In *FCI Atwater I*, the Authority held that "the mere possibility that an employee *might* be called upon to perform work while traveling does not make all travel time compensable." 68 F.L.R.A. at 859, citing *FCI Allenwood*, 996 F.L.R.A. at 1000.
139. Furthermore, the evidence demonstrated that when officers responded to emergencies or are relieved late and reported the time spent, they were compensated for that time. For example, Officer Farmer testified that when he has had to stay late because he was responding to an emergency, he was compensated. See Farmer testimony, 7/17/14, Tr. at 137. As Officer Paulk acknowledged when asked on cross examination, a lieutenant will not know that an officer should be compensated for overtime unless the officer informs the lieutenant. See Paulk testimony, 8/21/14, Tr. at 100-102.
140. Finally, the evidence established that there are certain times of the day during which there would either be no inmates outside of their cells or only a very few. For example:
- a. Inmate head counts are conducted at 4 p.m. and 9:30 p.m. Officers are instructed to move inmates into their cells prior to these headcounts, e.g., between 3:30 and 3:45 p.m. Officers making a shift change from DW (8 a.m. to 4 p.m.) to EW (4 p.m. to 12 midnight) would not encounter inmates as they would be in their cells for the 4:00 p.m. count. Officers on a PM shift (1:45 to 9:45 p.m.) would be leaving when inmates are secured in their cells for the 9:30 p.m. count.
 - b. In addition, officers traveling to their posts at particular shift changes are unlikely to see inmates on the compound. There should be no inmates walking around the facility at midnight and as a result, the Control staff may leave some gates or sliders open so that staff entering and exiting during these times can do so more quickly.

- c. Inmates would be encountered around 8 a.m. returning from breakfast and in the main corridor area where pill line and urine analysis are conducted. These inmates, though, would be supervised by other officers, e.g., Corridor Officers, Compound Officers.

141. I find that the Union has not met its burden of showing that traveling to an officer's post at the USP or FCI is either productive work or one that is indispensable and integral to productive work.

**Evidence concerning the time
required for specific activities and vigilance and alertness**

142. The Union noted that Pollock had a reputation as a violent and dangerous facility. While the Agency did not dispute this, it responded that numerous changes have been made since January 2010 that have made the facility a safer place for inmates and staff alike. Lt. Darden testified that after his arrival to Pollock in August 2009, he saw the following changes that enhanced safety:

- a. A fence project at the USP fenced in the recreation yards for the housing units. This meant that inmates were not free to roam from housing unit to housing unit. The fence fasteners were painted a bright yellow to enable officers to easily see whether the fences had been tampered with.
- b. Grills were added to segregate and contain inmates.
- c. An enhanced alarm system was installed so that an alarm could be heard on the compound. If there is an incident on the compound or if a staff member hits his or her arrest button, Control staff will make an announcement ordering inmates to lie on the ground and cease all movement. In addition, a strobe light was placed below the windows of the tower that turned on if an incident occurred.
- d. Posts were added, e.g. SHU #7 at both the USP and FCI.
- e. Changes were made to the inmate rules to enhance security. Inmates were required to have their shirts tucked in so that officers could easily see at a glance whether the inmate had a belt on or was concealing contraband under their shirts.
- f. Controlled movements were instituted at the USP so that the number of inmates moving at any given time was reduced.

See Darden testimony, 4/29/15, Tr. at 36-67.

143. Concerning the time required for specific activities, the Union's case consisted primarily of opinion testimony offered by correctional officers. That opinion testimony — which took up much of the 19 days that the Union took to put on its case in chief — in turn was based almost entirely on the witnesses' unaided recollections and estimates of how long particular tasks took.
144. The Agency took a different approach in its own case, one that I find provided more-reliable evidence. While the Agency did present some opinion testimony regarding time estimates, much of the Agency's case rested on time-stamped videos and -photos of officers actually performing particular activities, such as, for example, officers' entering and exit times; the time periods needed for one officer to relieve another at a post; and officers walking across the compound to their posts.
145. As discussed below, the video evidence shows that the officers' estimates of time presented by the Union were mostly inaccurate; this was true whether the estimates were of entrance- and exit times or of the times it takes to perform particular activities. While I do not doubt that the officers were giving their opinion testimony to the best of their knowledge, I take notice that people's estimates of time can be inaccurate, as demonstrated by the video evidence; for that reason, I give very little weight to the officers' testimony concerning time.
146. The following is a summary of the exhibits that I find to be more reliable than the officers' opinion testimony.
147. **Joint time and distance study:** Joint exhibit 132 is a time and distance study conducted jointly by Union representative Jason Shannon and, for the Agency, Lt. Oscar Mack. The parties started at the front door of each facility (USP and FCI) measured the time and distance to certain key points that the parties felt was relevant to the portal case. Officer Shannon testified that the study was conducted approximately one month before his testimony, which would have been in about September 2014. *See Jason Shannon 10/30/14 Tr. at 70.* The parties chose not to measure the time it took to pass through the mandatory security screening. Both Officer Shannon's and Lt. Mack's times and distances were identical for each facility. *See Appendix J*

148. Although the study was not conducted during a shift change, Officer Shannon testified that based on his recollection, every slider was closed, but that it was relatively easy to get through sliders 1 and 2 as the Control Center staff could see an officer coming through the sliders. Sometimes a slider after Sliders 1 and 2 might have required Officer Shannon or Lt. Mack to press a button to alert the Control Center staff if staff members had not noticed them right away; I credit that testimony. See Shannon testimony 10/30/14 Tr. at 70.
149. According to the table in Appendix J, it took 31 seconds to travel from the front door of the USP to the front of Slider 1. It took 3 minutes and 49 seconds to get from the front door at the USP, through the sally port and Slider 3, to the Main Compound door, which is past Slider 3. Officer Shannon testified that to the best of his recollection, the Main Corridor officer was nearby and unlocked a door to the Main Compound, so that it did not take very long to get through that door and into the Main Compound. See Shannon testimony, 10/31/14 Tr. at 74. Then from the entrance to the Main Compound to the farthest post, Housing Unit A, it took 6 minutes and 28 seconds. While this time did not include security screening, the total amount of time from the front door to Housing Unit A was 10 minutes and 17 seconds.
150. The data collected by the parties regarding the time and distance at the FCI was similar. According to the time and distance chart for the FCI, it took 5 minutes and 55 seconds to walk from the Control Sally Port to the Food Service Entrance door, the second farthest spot. It took 5 minutes and 12 seconds to get to Housing Unit D, the farthest Housing Unit. It took an additional 37 seconds to walk up the Housing Unit stairs.
151. As the Union correctly notes, the joint time and distance study was not conducted during a peak arrival time, such as staff arriving for the DW shift. This could be, according to Officer Daniels, as many as 20 people in line for screening or, according to Officer Shannon, there could be as many as 100 people going through shift change at 8 a.m. See Union Brief at 22, 39; Daniels testimony, 8/22/14 Tr. 66; Shannon testimony, 8/19/14, Tr. 18-19. The difference between screening 20 people and screening 100 people is substantial, which makes it difficult to know how much weight to give to either officer's estimate. (Realistically, it would likely take longer to get through screening and sliders when Control Center personnel, who have more than 20 sliders to operate, must accommodate more staff members coming and going during, say, a Day Watch shift change than they do at other times. See Union Brief at 107.)

152. Even so, the parties jointly chose to collect their time-and-distance data for a non-peak time period; for purposes of the Union's burden of proof, the record is what it is.

153. **Still photos of entering and exiting the USP:** As noted in the *FCI El Reno* arbitration award:

...[I]ndividual officer's arrival or departure time is irrelevant. Rather, the inquiry is when — and for how long — an officer begins performing a principal activity.

FCI El Reno arb. award at 32, citing *FCI Atwater* at 859 [sic; more likely 68 F.L.R.A. at 861, text accompanying n.63 & n.64].

154. Agency Exhibit 9 is a compilation of still photographs from a security camera facing the front doors in the USP lobby. See testimony of Lt. John Bacon, 10/7/15, Tr. at 16-7, 46-63. The still photos were captured from the video of May 12-18, 2013, the week of video that both parties agreed upon and that was provided to the Union in response to the Union's request for information.

155. Lt. Bacon viewed the video and identified nine different officers entering and exiting the front lobby door of the USP on 19 different occasions during the week of May 12-18, 2013. All nine officers identified by Lt. Bacon were witnesses in this arbitration and testified, based on their recollection, to the time they typically or usually or on average arrived and left the USP.⁹ The entrance and exit times were summarized in a chart provided by the Agency; see Agency Brief Attachment B.¹⁰

156. I compared the information from Agency Brief Attachment B, based on the times indicated on the photos, to the testimony in the record (See Award Appendix K) of the officers listed in that attachment and to Union Exhibit 8, which was a compilation of entrance and exit times and the posts

⁹ Lt. Bacon was unable to determine the total time spent in the institution for four of the officers.

¹⁰ Although Lt. Bacon identified the shift that the officer worked during the week of May 12-18, 2013, for Agency Brief Attachments A and B, he did not always identify the specific post that the officer worked, either for the USP (Agency Exhibit 9) or the FCI (Agency Exhibit 8). Union Exhibit 8, which is a spreadsheet prepared by the Union in much the same way as Lt. Bacon's summary, captured entrance and exit times at the USP (but not for the FCI) for most of the posts for the week of May 12-18, 2013. The Union's spreadsheet contained the post and shift that each officer worked that week which made it possible to match the officer's times with specific posts.

that each officer held during week of May 12-18, 2013. It was apparent that the officers' estimation or recollection of their typical arrival and exit times was overstated. No officer at the USP testified to working less than eight hours and ten minutes. The majority of the officers at USP posts testified to typically spending a minimum of eight hours and 15 to 30 minutes in the USP. The actual times that I surveyed, however, showed that only two officers (Officers Jones and Walters) spent as much as 8 hours and 13 minutes in the USP and one officer (Officer Futrell) spent eight hours and twelve minutes — and there was no evidence indicating that those officers were engaged in compensable activities during the time that exceeded eight hours. *See Award Appendix E*

157. **Still photos of entering and exiting the FCI:** Agency Exhibit 8 is a compilation of still photographs from a security camera facing the front doors in the FCI lobby. The still photos were captured by the Agency from the video of May 12-18, 2013 that was provided in response to the Union's request for information. *See testimony of Lt. John Bacon, 10/7/15, Tr. at 16-17, 20-45.*
158. Lt. Bacon viewed the video and identified ten different officers entering and exiting the inner front lobby door of the FCI on 23 different occasions during the week of May 12-18, 2013.¹¹ All ten officers were witnesses in this arbitration and testified, based on their recollection, to the time they typically or usually or on average arrived and left the FCI. The entrance and exit times were summarized in a chart attached to the Agency's post-hearing brief (Agency Brief Attachment A).
159. I compared the information from Agency Brief Attachment A, based on the photos, to the testimony in the record (*See Award Appendix K*) of the officers listed in that attachment. It was apparent that the officers' estimation or recollection of their typical arrival and exit times was overestimated. The majority of the officers testified to typically working at least eight hours and 15-20 minutes. The summary indicates that of the ten officers for whom entrance and exit times could be obtained, one officer (Officer Craft) was in the FCI for more than eight hours and ten minutes. *See Award Appendix F.*
160. **The videos:** The Agency's case concerning the time required for pre- and post-shift activities was built primarily on video evidence and testimony, supported by some witness testimony. There

¹¹ Lt. Bacon was unable to determine entry and exit times for four of the nineteen occasions.

was no audio with the video, but certain actions – and lack of action — could be observed. The video evidence documented the relief times and walking times of officers across the compound to their posts. The videos also indicated the degree to which officers reacted or responded to inmates as they walked to their posts. See Agency Exhibits 2 and 3.

161. As summarized in Attachments C to H to the Agency’s brief, the video evidence captured USP relief times on numerous dates and shifts in 2014 and 2015, described as the time that the on-coming and outgoing officer spent together exchanging equipment and information. The Agency’s attachments indicate the following:
- a. Agency Brief Attachments C through H summarized the relief time for the USP Housing Units (A2-A4, B1-B4, C1-C4). Of the 137 observed reliefs, 89 of them, or 65%, lasted two minutes or under. No relief lasted ten minutes and many reliefs lasted literally seconds. See Award Appendix M.
 - b. Agency Brief Attachments I and J summarized relief times for the USP SHU. Of the 33 observed reliefs, 12 of them, or 36%, lasted two minutes or under. Only one relief lasted more than four minutes. See Award Appendix M.
 - c. Agency Brief Attachment K summarizes relief time for Tower 8 (aka Center Tower). Of the nine reliefs observed at Tower 8, two of them, or 22%, lasted two minutes or under. Tower 8 had one relief lasting 7 minutes and 47 seconds, while another relief lasted 26 minutes and 55 seconds. See Award Appendix M.
 - d. Agency Brief Attachments L and M summarize relief times for the Munitions Room. Of the 17 reliefs observed, eight of them, or 47%, lasted two minutes or under. Relief times for seven observations were unable to be recorded, in several cases because no one entered the Munitions Room. See Award Appendix M.
162. **Conclusion:** While the Union witnesses testified credibly for the most part, the joint time and distance study, the still photos of entrance and exit times, and the hours of video submitted by the Agency undermined the reliability of the officers’ testimony. For officers who do not stop at the Control Center to pick up their equipment, thus starting their compensable day, the Union has failed to show that the pre-shift, post-screening activities at issue in this case meet either of

the following criteria: (i) exceeding either (x) a *de minimis* length of time, or (y) ten minutes per workday or (ii) following one or more compensable activities that start a continuous workday.

Suffered and permit

163. Various officers testified that although a lieutenant may see them in the security screening area, at Control or making relief before their starting time, no lieutenant ever questioned the officer as to why the officer was there 15-30 minutes prior to their shift or disciplined them. As noted in *FCI El Reno*, arrival and departure times may vary and are irrelevant. What is relevant is how long the officer begins performing a principal activity, and also whether that activity meets the *de minimis* test. See *FCI El Reno* (2016).
164. Like the testimony adduced in *FCI El Reno*, the record here also indicates that there is a culture or concept of a “good relief,” which means relieving an officer prior to the end of his shift, which means that the relieving officer must arrive early. See *id.* at 38-39. Officer Paulk testified that a bad relief is an officer that arrives at the front lobby at the time the officer should be on post. See Paulk testimony, 8/21/14, Tr. 100. The video evidence tends to show that while officers may arrive early, they are then generally leaving early, depending on the officer. As in *FCI Jessup* (2016), there is evidence to indicate that officers were informally altering their starting and ending times by arriving and departing early. When this is the case, it is difficult for a lieutenant to know whether an officer he sees arriving early is also working beyond eight hours and ten minutes unless the lieutenant is also observing the officers’ departure times. The lieutenant also might not know whether the officer is on a 24-hour post that quarter and therefore is expected to be on his post at the start of his shift or on a 16-hour post that quarter and therefore expected to be at Control at the start of his shift.
165. The Agency offered testimony from several lieutenants indicating that it is not possible for a lieutenant to be at every location or post and know when each officer is arriving to perform productive work and exiting.
166. I find that the Union has not shown it to be more likely than not that the Agency suffered or permitted officers to work overtime without compensation.

Union's contention that changes were made

167. In its Reply brief, the Union contended that during the course of the arbitration hearing — which spanned three years — the Agency made certain policy and procedure changes that were reflected in the video used by the Agency as exhibits. Further, the Union argued that the Agency supposedly ambushed the Union by collecting self-serving video from the time period of June 2014 to March 2015.
168. The video evidence has been discussed earlier, but some further points need be made. Regarding the collection of the video, Roger Christopher, FCC Computer Service Manager, testified that there were some 350+ cameras at the USP. Those cameras record and maintain the data until the storage space on each server is filled. When the storage capacity of the server is filled, the server will overwrite the oldest video first. This is an automatic feature of the system. *See Christopher testimony, 4/1/15 Tr. at 144.* Mr. Christopher testified that he assisted Lt. Omelson as a technical expert in obtaining the video. *See Christopher testimony, 4/1/15, Tr. at 151.*
169. Lt. Omelson testified credibly that her instructions from the Agency attorney were to obtain video from random dates showing a representation of what occurs during shift reliefs. Lt. Omelson was asked to capture three reliefs per housing unit, per duty post, per shift. Lt. Omelson was given no direction as to what dates to choose. Lt. Omelson testified that she randomly chose dates, such as her father's birthday. *See Omelson testimony, 4/2/15 Tr. at 83-84.* The evidence does not indicate that the dates were "cherry picked."
170. The Union also argues that, because the Agency changed policies and procedures during the course of the arbitration, the video that was captured was not reflective of officer practices prior to the changes. *See Union Reply brief at 6-7.* On behalf of the Union, Officer Shannon testified to the following changes in Agency policies and procedures:
- a. a memorandum that the Agency issued on October 24, 2014 instructing Control #2 officers at the FCI not to bring the key count slip to the Control Center at the USP after their shift. Key counts were to be handed into the FCI Lieutenant's Office. *See Joint Exhibit 149.*
 - b. boxes where overtime slips were dropped off by employees were removed and then replaced;

- c. a sign was placed in front of the Control Center at both the FCI and USP stating that staff were not allowed to enter the institution until ten minutes before their shift began;
 - d. Lieutenants at FCC Pollock began to verbally instruct officers not to arrive ten minutes or more prior to their shift.
171. First, it would be unusual if policies and procedures did not change over the course of a three-year period. While the Agency did not dispute that these changes were made, it was not clear what if any impact these changes had on this portal case.
172. In addition, the Union's position here appears to put the Agency in the position of requiring the Agency to "suffer and permit" officers to work beyond their duty hours without compensation yet not attempt to correct the situation.
- a. Concerning the Agency's October 24, 2014 memorandum described in subdivision 170.a: That memo directed the PM Control #2 officers at the FCI to discontinue taking "key counts to the USP after their using their personal vehicles." The PM Control #2 officer is a 16-hour post ending at 10 p.m. The Union did not indicate how much time was spent on this activity prior to the memorandum being issued.
 - b. It was not clear what posts were affected by the removal and then replacement of boxes for overtime slips nor the impact of this change on the portal case.
 - c. Subdivisions 170.c and 170.d appear to refer to a July 30, 2014 memorandum from Warden Carvajal to all staff regarding adherence to reporting times. Warden Carvajal's memorandum essentially tracks Program Statement P3000.3, stating that officers who pick up equipment at the Control Center are not late if they are at the Control Center at the start of their shift. Officers whose equipment is on their post are deemed to be on time if they arrive at their post by the start of their shift. As such, this was not a change in Agency policy. There was no testimony from officers that these instructions, which were similar to the post orders they reviewed and signed each quarter, changed their arrival and exit practices.

The Master Agreement

173. The Union contends that the Agency subjected employees to unjustified or unwarranted personnel practices when it violated Article 4, 5, 6, and 18 of the Master Agreement. In light of my findings above, I cannot conclude that the Agency violated the Master Agreement.

Award

174. For the reasons set forth in this award and the attached Award Appendices, I make the following findings and conclusions regarding the when the compensable workday begins and ends at the USP and the FCI:
- a. *For posts where equipment is picked up and dropped off at the Control Center, and as conceded by the Agency, see paragraph 3, I find that the continuous workday starts and ends there. See Joint Exhibit 42.*
 - b. *For posts where equipment is picked up and dropped off at the post, I find that the continuous workday starts and ends at the post.*
 - c. *Mandatory screening:* I find that mandatory security screening of correctional officers is neither an activity that the officers are employed to perform, i.e., it is not productive work, nor is it integral and indispensable to such activities. Mandatory screening therefor is not compensable, nor does it start the continuous workday for the officers being screened.
 - d. *Donning and doffing of duty belts:* I find that the donning or doffing of duty belts is neither productive work that officers are employed to perform, nor an activity that is integral and indispensable to productive work — officers could dispense with this activity and still perform their productive work. Donning and doffing of duty belts is therefore not compensable, nor does it start the officer's continuous workday for the officers.
 - e. *Slider 1:* Other than as stated above for posts where equipment is picked up at the Control Center, I find that an officer's travel through the sally port and the no man's land walkway — that is, the officer's transiting successively through Slider 1, Slider 2, and Slider 3 — contributes to the facility's maintaining of security, but such travel is neither: (i) productive work that the officers are employed to perform; nor (ii) an activity that is integral and indispensable to

the officer's productive work. Transiting from Slider 1 through Slider 3 is therefore not compensable, nor does it start the officer's continuous workday.

- f. *Slider 3*: I find that an officer's traveling to his post at the USP or FCI from Slider 3 is neither productive work nor indispensable and integral to productive work; such travel therefore is not compensable, nor does it start the officer's continuous workday.
- g. *Other*: I find that of the enumerated posts jointly stipulated by the parties in Award Appendix B, the Union has withdrawn its claim for FCI Facilities Corridor DW post, and the Union has conceded that the USP Front Lobby AM and PM post and the USP Compound #1 post do not work past their assigned hours of duty. See Union Brief at 34 and 56.

175. The parties are respectfully reminded that:

- a. Near the end of the majority opinion in *Integrity Staffing*, the Court remarked that the employees' claims "are properly presented to the employer at the bargaining table, not to a court in an FLSA claim." 135 S. Ct. at 519; and
- b. The Agency's Program Statement, P3000.3 states that "Union participation at the local and regional levels in formulating plans is strongly encouraged."

176. Nothing in this award precludes the parties from bargaining to have the continuous workday start and end at specified locations, and for those locations to be taken into account in the bargained-for compensation rates.

177. POSTSCRIPT: On July 26, 2017, I emailed a draft of this partial final award to counsel for the parties and invited them to comment about:

- 1. any information within the draft that might be covered by the protective order and therefore should not be included in a publicly-available award;
- 2. any failure to make specific findings of fact that might be required (to reduce the chances that the Authority might remand the case); and
- 3. whether the draft award was based on a nonfact (e.g., whether a central fact underlying the award was clearly erroneous, but for which the arbitrator would have reached a different conclusion).

I advised counsel that I was not asking them to agree or disagree with my findings and conclusions unless those disagreements related to the above three items. I also advised counsel that any comments were due no later than 5:00 p.m. yesterday, August 4, 2017. To date I have received no comments of any kind, nor any request for an extension of time. This award is substantially identical to the draft that I sent to the parties; the only changes I have made were essentially typographical, along with adding this postscript.

Signed August 5, 2017 in
Houston, Texas



Maretta Comfort Toedt, Arbitrator

Index of Appendices to Partial Award

AWARD	DESCRIPTION	SOURCE(S)
A	Relevant provisions from the December 7, 2012 grievance	Joint Exhibit 2
B	Enumerated posts at USP and FCI agreed to by the parties	7/16/14 Tr. at 9-12
C	Relevant provisions from the Master Agreement	Joint Exhibit 1
D	List of Joint Exhibits 1-153, Union Exhibits 1-8, and Agency Exhibits 1-16	
E	Comparison table of officers' self-reported in and out times in 2014 to still photo camera in and out times from May 12-18, 2013 at USP	Agency Exhibit 9; Attachment B to Agency's brief; Union Exhibit 8
F	Comparison table of officers' self-reported in and out times in 2014 to still photo camera in and out times from May 12-18, 2013 at FCI	Agency Exhibit 8; Attachment A to Agency's brief
G	Table of 24-hour, 16-hour, and 8-hour posts	Union and Agency briefs; record
H	Relevant provisions from P3000.3 HRM Manual Program Statement	Joint Exhibit 42
I	Relevant provisions from the statute and OPM regulations	
J	Time and distance study conducted by the parties in September 2014	Joint Exhibit 132 Shannon testimony, 10/31/14 Tr. 70-76
K	List of USP posts and shifts with names of witnesses and dates of testimony regarding the post and shift	Developed and updated during the course of the hearing and emailed to the parties after hearing date updates
L	List of FCI posts and shifts with names of witnesses and dates of testimony regarding the post and shift	Developed and updated during the course of the hearing and emailed to the parties after hearing date updates
M	Summary of Agency brief attachments C through M Relief times for USP Housing Units, SHU, Center Tower, and Munitions	Agency brief, Attachments C through M; Agency Exhibit 2 (videos)
N	List of cases cited	

**Award Appendix A
(Joint Exhibit 2)
Relevant provisions from the December 7, 2012 Grievance**

5. Federal Prison System Directives, Executive Order, or Statute violated:

A continuing violation of the Master Agreement between the Federal Bureau of Prisons and the Council of Prison Locals, including but not limited to the following Articles: Article 3, Section b., Governing Regulations. This is a continuing violation of the overtime laws under Section 7 of the Fair Labor Standards Act, 29 U.S.C. § 207(a), as well as the Office of Personnel Management regulations implementing the FLSA in the federal sector set forth at 5 C.F.R. Part 551, and under Title 5 of the U.S. Code. Moreover, this is a continuing violation of the premium pay laws providing for premium pay under Title 5, 5 U.S.C. § 5546, and implementing regulations such as 5 C.F.R. §550.171 and 5 C.F.R. §550.103 and failure to include such pay in the calculation of the regular rate of pay for purposes of Fair Labor Standards Act ("FLSA") overtime 5 C.F.R. § 551.511.

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

From January 29, 2010, as well as before, and continuing and ongoing to the present (with the exception of the time period in which AFGE Local 1034 bargaining unit employees are covered by the January 24, 2006 portal-to-portal grievance for time spent working positions at FCC Pollock which covers that violation specified in that grievance), the Agency is requiring bargaining unit employees currently classified as FLSA non-exempt, to perform work prior to and after their shifts. The Agency requires certain unit employees to perform work prior to the start of their tour of duty, such as obtaining equipment, exchanging information, etc. as well as after the completion of their tour of duty, such as returning equipment, exchanging information, etc. Employees are further delayed due to the lag time as they attempt to walk to and from their post but are delayed by the walking routes mandated by the Agency. The employees have been performing work for the benefit of the agency during this pre- and post-shift time yet it has not paid them for this work time. As a result, management has violated the rights of these employees set forth under the articles and laws referenced in paragraph 5 above.

7. Date(s) of violation(s):

From January 29, 2010, as well as before, and continuing and ongoing to the present (with the exception of the time period in which AFGE Local 1034 bargaining unit employees are covered by the pending January 24, 2006 portal-to-portal grievance for time spent working positions at FCC Pollock which covers that violation specified in that grievance).

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

AFGE Locals 1034 seek relief to the fullest extent available under the law for the Agency's wrongful failure to pay FLSA overtime to bargaining unit employees. AFGE Locals 1034 requests that each affected bargaining unit member who expresses an interest in receiving damages by signing the union's required forms be made whole in every way including but not limited to an

award of backpay under the FLSA and Title 5. Furthermore, in accordance with Section 16(b) of the FLSA, 29 U.S.C. § 216(b), AFGE Locals 1034 seeks liquidated damages and reimbursement of attorneys' fees and expenses incurred in pursuing the employees' rights under the Act. The employees are also entitled to interest on their damages pursuant to the Back Pay Act, 5 U.S.C. § 55596(b)(2)(A) and attorneys' fees under the Back Pay Act.

Of course, AFGE Locals 1034 also seeks an award requiring the Agency to cease and desist from its practice of employees performing pre-shift and post-shift work without receiving compensation.

Also, we request the arbitrator retain jurisdiction over the final outcome of this grievance until all parties are made whole.

Finally, this grievance serves to notify the Agency that AFGE Locals 1034 has obtained counsel to represent the Unions and the employees' in this matter. All further correspondence in this matter should be addressed to Jack K. Whitehead, Jr. Whitehead Law Firm, 11909 Bricksome Avenue, Suite W-3 Baton Rouge, LA 70816. Our counsel's telephone number is (225) 303-8600.

December 7, 2012
Brian Richmond /s/

Award Appendix B

In this Appendix, “AM” and “PM” refer to watches at posts that are not staffed 24 hours per day; Morning, Day, and Evening refer to watches at posts that are staffed 24 hours per day.

U.S. Penitentiary posts and shifts encompassed by this grievance

See the parties’ stipulation on July 16, 2014, Tr. 9-11.

1. SHU #1 – Morning, Day, and Evening
2. SHU #2 - Morning, Day, and Evening
3. SHU # 3 – AM and PM
4. SHU #4 – AM and PM
5. SHU Recreation – AM and PM
6. SHU #7 - AM and PM
7. Compound Officer #1 - Morning, Day, and Evening
8. Compound Officer #2 - Morning, Day, and Evening
9. Control Officer #1 - Morning, Day, and Evening
10. Control Officer #2 – AM and PM
11. Main Corridor Officer - Morning, Day, and Evening
12. West Corridor Officer – AM and PM
13. East Corridor Officer – AM and PM
14. Facilities Corridor Officer – Day; the Union stipulated that it was not seeking overtime for this post. *See* September 9, 2014, Tr. at 137.
15. Housing Unit A 1 - Morning, Day, and Evening
16. Housing Unit A 2 - Morning, Day, and Evening
17. Housing Unit A 3 - Morning, Day, and Evening
18. Housing Unit A 4 - Morning, Day, and Evening
19. Housing Unit B 1 - Morning, Day, and Evening
20. Housing Unit B 2 - Morning, Day, and Evening
21. Housing Unit B 3 - Morning, Day, and Evening
22. Housing Unit B 4 - Morning, Day, and Evening
23. Housing Unit C 1 - Morning, Day, and Evening
24. Housing Unit C 2 - Morning, Day, and Evening
25. Housing Unit C 3 - Morning, Day, and Evening
26. Housing Unit C 4 - Morning, Day, and Evening
27. Center Tower Officer #1 - Morning, Day, and Evening
28. Center Tower Officer #2 – AM and PM
29. Compound Rover Officer – AM and PM on weekends and PM on weekdays
30. Front Lobby Officer – AM and PM (The Union stated in its post-hearing brief that there was no overtime claim for this post. *See* Union post-hearing brief at 56.)

Federal Correctional Institute posts and shifts encompassed by this grievance

See the parties' stipulation on July 16, 2014, Tr. 11-12.

1. SHU Officer #1 - Morning, Day, and Evening
2. SHU Officer #2 - Morning, Day, and Evening
3. SHU Officer #3 – AM and PM
4. SHU Officer #4 – AM and PM
5. SHU Officer #7 – EW
6. SHU Recreation Officer – AM and PM
7. Compound Officer #1 - Morning, Day, and Evening
8. Compound Officer #2 - Morning, Day, and Evening
9. Control Officer #1 - Morning, Day, and Evening
10. Control Officer # 2 – AM and PM
11. Housing Unit D 1 - Morning, Day, and Evening
12. Housing Unit D 2 – AM and PM
13. Housing Unit D 3 - Morning, Day, and Evening
14. Housing Unit D 4 – AM and PM
15. Housing Unit E 1 - Morning, Day, and Evening
16. Housing Unit E 2 – AM and PM
17. Housing Unit E 3 - Morning, Day, and Evening
18. Housing Unit E 4 – AM and PM
19. Housing Unit F 1 - Morning, Day, and Evening
20. Housing Unit F 2 – AM and PM
21. Housing Unit F 3 - Morning, Day, and Evening
22. Housing Unit F 4 – AM and PM

**Award Appendix C
(Joint Exhibit 1)
Relevant provisions from the Master Agreement**

ARTICLE 3 – GOVERNING REGULATIONS

Section b. In the administration of all matters covered by this Agreement, Agency officials, Union officials and employees are governed by existing and/or future laws, rules, and government-wide regulations in existence at the time this Agreement goes into effect.

ARTICLE 4 – RELATIONSHIP OF THIS AGREEMENT TO BUREAU POLICIES, REGULATIONS, AND PRACTICES

Section a. In prescribing regulations relating to personnel policies and practices and to conditions of employment, the Employer and the Union shall have due regard for the obligation imposed by 5 USC 7105, 7114, and 7117. The Employer further recognizes its responsibility for informing the Union of changes in working conditions at the local level.

Section b. On matters which are not covered in supplemental agreements at the local level, all written benefits, practices and understandings between the parties implementing this Agreement, which are negotiable, shall not be changed unless agreed to in writing by the parties.

Section c. The Employer will provide expeditious notification of the changes to be implemented in working conditions at the local level. Such changes will be negotiated in accordance with the provisions of this Agreement.

ARTICLE 5 – RIGHTS OF THE EMPLOYER

Section a. Subject to Section b. of this article, nothing in this section shall affect the authority of any Management official of the Agency, in accordance with 5 USC, Section 7106:

1. to determine the mission, budget, organization, number of employees, and internal security practices of the Agency; and
2. in accordance with applicable laws:
 - a. to hire, assign, direct, layoff, and retain employees in the Agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
 - b. to assign work, to make determinations with respect to contracting out, and to determine the personnel by which Agency operations shall be conducted;
 - c. with respect to filling positions, to make selections for appointment from:
 - i. among properly ranked and certified candidates for promotion; or
 - ii. any other appropriate source; and
 - d. to take whatever actions may be necessary to carry out the Agency mission during emergencies.

Section b. Nothing in this section shall preclude any agency or any labor organization from negotiating:

1. at the election of the Agency, on the numbers, types, and grades of employees or positions assigned to any organizational sub-division, work project, or tour of duty, or the technology, methods, and means of performing work;

ARTICLE 6 – RIGHTS OF THE EMPLOYEE

Section g. The Employer and its employees bear a mutual responsibility to review documents related to pay and allowances in order to detect any overpayments/underpayments as soon as possible.

2. should an employee realize that he/she has received an overpayment/underpayment, the employee will notify their first line supervisor in writing;

ARTICLE 18 – HOURS OF WORK

Section a: The basic workweek will consist of five (5) consecutive workdays. The standard workday will consist of eight (8) hours with an additional thirty (30) minute non-paid, duty-free lunch break. However, there are shifts and posts for which the normal workday is eight (8) consecutive hours without a non-paid, duty-free lunch break.

ARTICLE 28 – UNIFORM CLOTHING

Section b. The Employer will ensure that adequate supplies of security and safety equipment are available for issue to and/or use by employees during the routine performance of their duties. This includes, but is not limited to, whistles, key chains, key clips, belts for equipment, disposable resuscitation masks and rubber gloves, handcuffs, two-way radios, body alarms, flashlights, hand-held metal detectors, weapons, ammunition, etc. Cases or holders, whichever is appropriate, to carry such equipment will also be available for these particular items of equipment normally using such cases or holders. Employees receiving such items will be accountable for them until they are returned to the Employer.

Section f. The employer will pay an allowance each year to each employee who is required by policy to wear a uniform in the performance of their official duties. The allowance for each prescribed uniform will be no less than \$400.00 per year, per uniformed employee.

ARTICLE 31 – GRIEVANCE PROCEDURE

Section d. Grievances must be filed within forty (40) calendar days of the date of the alleged grievable occurrence. If needed, both parties will devote up to ten (10) days of the forty (40) to the informal resolution process. If a party becomes aware of an alleged grievable event more than forty (40) calendar days after its occurrence, the grievance must be filed within forty (40) calendar days from the date the party filing the grievance can reasonably be expected to have become aware of the occurrence. A grievance can be filed for violations within the life of this contract, however, where the statutes provide for a longer filing period, then the statutory period would control.

ARTICLE 32 – ARBITRATION

Section g. The arbitrator shall be requested to render a decision as quickly as possible, but in any event no later than thirty (30) calendar days after the conclusion of the hearing, unless the parties mutually agree to extend the time limit. The arbitrator shall forward copies of the award to addresses provided at the hearing by the parties.

Section h. The arbitrator's award shall be binding on the parties. However, either party, through its headquarters, may file exceptions to an award as allowed by the Statute.

The arbitrator shall have no power to add to, subtract from, disregard, alter, or modify any of the terms of:

1. This Agreement; or
2. Published Federal Bureau of Prisons policies and regulations.

**Although the Union argued in its post-hearing brief that the Agency violated Articles 4, 5, 6 and 18, it did not specify which particular sessions or in what way those articles were violated. See Union Brief at 162.*

Award Appendix D
Joint, Union, and Agency Exhibits

Created and updated by the arbitrator and provided to the parties during the course of the hearing.

Joint Exhibits and Descriptions

Binder 1	
Joint 1	Master Labor Agreement (MLA) (Article 28 – Uniform Clothing)
Joint 2	Grievance dated 12/7/12
Joint 3	Informal Resolution Attempt (Brian Richmond to M.P. Carvajal dated 11/16/12)
Joint 4	Photos and diagrams of FCC Pollock, including FCI Pollock schematic (p. 10)
Joint 5	General Post Orders for 2011, 2012 and 2014
Joint 6	<p>2014 (February) USP Unit Officer 1 Specific Post Orders (for A 1-4, B 1-4 and C 1-4 Housing Units consolidated) February 2014 Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening 4 P.M. to 12 A.M. Special Instructions</p> <p>2014 (February) USP Unit Officer 2 Special Instructions (for A 1-4, B 1-4 and C 1-4 Housing Units consolidated) February 2014 A.M. 6 A.M. to 2 P.M. P.M. 1:45 P.M. to 9:45 P.M.</p>
Joint 7	<p>2009 (September) Specific Post Orders for USP Unit A-1 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) Specific Post Orders for USP A-1 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (July) Specific Post Orders for USP A-1 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) Specific Post Orders for USP A-1 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p>

Binder 1	
Joint 8	<p>2008 (February) Specific Post Orders for Unit A-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) Specific Post Orders for Unit A-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (July) Specific Post Orders for Unit A-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) Specific Post Orders for Unit A-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p>
Joint 9	<p>2008 (December) Specific Post Orders for Unit A-3 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) Specific Post Orders for Unit A-3 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (July) Specific Post Orders for Unit A-3 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p>

Binder 1	
Joint 10	<p>2008 (February) Specific Post Orders for Unit A-4 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) Specific Post Orders for Unit A-4 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (July) Specific Post Orders for Unit A-4 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) Specific Post Orders for Unit A-4 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p>
Binder 2	
Joint 11	<p>2012 (May) Specific Post Orders for Unit B-1 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) Specific Post Orders for Unit B-1 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (July) Specific Post Orders for Unit B-1 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p>

Binder 2	
Joint 12	<p>2008 (February) Specific Post Orders for Unit B-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) Specific Post Orders for Unit B-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (July) Specific Post Orders for Unit B-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) Specific Post Orders for Unit B-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p>
Joint 13	<p>2008 (February) Specific Post Orders for Unit B-3 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) Specific Post Orders for Unit B-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (July) Specific Post Orders for Unit B-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) Specific Post Orders for Unit B-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p>

Binder 2	
Joint 14	<p>2008 (February) Specific Post Orders for Unit B-4 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) Specific Post Orders for Unit B-4 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (July) Specific Post Orders for Unit B-4 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) Specific Post Orders for Unit B-4 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p>
Joint 15	<p>2008 (February) Specific Post Orders for Unit C-1 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) Specific Post Orders for Unit C-1 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (July) Specific Post Orders for Unit C-1 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) Specific Post Orders for Unit C-1 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p>

Binder 2	
Joint 16	<p>2008 (February) Specific Post Orders for Unit C-2 Officer Morning - 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) Specific Post Orders for Unit C-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (July) Specific Post Orders for Unit C-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) Specific Post Orders for Unit C-2 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p>
Joint 17	<p>2008 (February) Specific Post Orders for Unit C-3 Officer Morning - 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) Specific Post Orders for Unit C-3 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) Specific Post Orders for Unit C-3 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p>

Binder 2	
Joint 18	<p>2008 (February) Specific Post Orders for Unit C-4 Officer Morning - 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) Specific Post Orders for Unit C-4 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (July) Specific Post Orders for Unit C-4 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) Specific Post Orders for Unit C-4 Officer Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p>
Joint 19	<p>2006 (December) USP Compound Officer #1 Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) USP Compound Officer #1 Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2014 (February) USP Compound Officer #1 Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight Special Instructions for Compound Officers</p>

Binder 2	
Joint 20	<p>2005 (December) USP Compound Officer #2 Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (July) USP Compound Officer #2 Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) USP Compound Officer #2 Morning 12 A.M. to 8 A.M. Day – 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2014 (February) USP Compound Officer #2 AM Shift – 6 A.M. to 2 P.M. PM Shift– 1:45 P.M. to 9:45 P.M. Special Instructions for Compound Officers</p>
Joint 21	<p>2008 (December) USP Compound Rover AM – 8 A.M. to 4 P.M. PM – 4 P.M. to Midnight</p> <p>2012 (May) USP Compound Rover Day – 8 A.M. to 4 P.M. P.M. Shift – 2:15 P.M. to 10:15 P.M.</p>
Binder 3	
Joint 22	<p>2011 USP Compound Tower Specific Post Orders - Tower #8 Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2014 USP Center Tower Specific Post Orders - Tower #8 Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight Special Instructions</p>

Binder 3	
Joint 23	<p>2012 (May) USP Compound Tower #2 (or "B") Specific Post Orders 6 A.M. to 2 P.M. 2 P.M. to 10 P.M.</p> <p>2011 (June) USP Compound Tower #2 Specific Post Orders 6 A.M. to 2 P.M. 2 P.M. to 10 P.M.</p> <p>2014 (February) USP Center Tower Specific Post Orders - Tower #8 6 A.M. to 2 P.M. 2 P.M. to 10 P.M. Special Instructions</p>
Joint 24	<p>2012 (May) USP Control Center #1 Officer Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (June) USP Control Center #1 Officer Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2014 (February) USP Control Center #1 Officer (stapled) Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight Special Instructions</p>
Joint 25	<p>2008 (December) USP Control Center #2 Officer A/M Shift – 6 A.M. to 2 P.M. P/M Shift – 2 P.M. to 10 P.M.</p> <p>2011 (June) USP Control Center #2 Officer A/M Shift – 6 A.M. to 2 P.M. P/M Shift – 2 P.M. to 10 P.M.</p> <p>2012 (May) USP Control Center #2 Officer A/M Shift – 6 A.M. to 2 P.M. P/M Shift – 2 P.M. to 10 P.M.</p> <p>2014 (February) USP Control Center #2 Officer (stapled) A/M Shift – 6 A.M. to 2 P.M. P/M Shift – 2 P.M. to 10 P.M. Special Instructions</p>

Binder 3	
Joint 26	<p>2006 (December) USP East Corridor Officer AM 6 A.M. to 2 P.M. PM – 2 P.M. to 10 P.M.</p> <p>2012 (July) USP East Corridor Officer A/M Shift – 6 A.M. to 2 P.M. P/M Shift – 2 P.M. to 10 P.M.</p> <p>2012 (May) USP East Corridor Officer A/M Shift – 6 A.M. to 2 P.M. P/M Shift – 1:45 P.M. to 9:45 P.M.</p> <p>2014 (February) USP East Corridor Officer A/M Shift – 6 A.M. to 2 P.M. P/M Shift – 2 P.M. to 10 P.M. Special Instructions</p>
Joint 27	<p>2006 (December) USP Facilities Corridor Officer Day – 7:30 A.M. to 4 P.M.</p> <p>2012 (July) USP Facilities Corridor Officer Day – 7:15 A.M. to 3:45 P.M.</p> <p>2012 (May) USP Facilities Corridor Officer Day – 7:15 A.M. to 3:45 P.M.</p> <p>2014 (February) USP Facilities Corridor Officer Day – 7:15 A.M. to 3:45 P.M. Special Instructions</p>
Eric Farmer	
Joint 28	<p>2012 (May) USP Front Entry Officer A/M Shift – 6 A.M. to 2 P.M. P/M Shift – 1:45 P.M. to 9:45 P.M.</p> <p>2011 (June) USP Front Entrance Officer A/M Shift – 6 A.M. to 2 P.M. P/M Shift – 1:45 P.M. to 9:45 P.M.</p> <p>2014 (February) USP Front Entry Officer A/M Shift – 6 A.M. to 2 P.M. P/M Shift – 1:45 P.M. to 9:45 P.M. Special Instructions</p>

Binder 3	
Joint 32	<p>2008 (January) SHU #1 Officer Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) SHU #1 Officer Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2014 (February) SHU #1 Officer Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight Special Instructions</p>

Binder 3	
Joint 33	<p>2008 (September) SHU #2 Officer Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (June) SHU #2 Officer Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) SHU #2 Officer Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2008 (September) SHU #2 Officer Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2011 (June) SHU #2 Officer Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2012 (May) SHU #2 Officer Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight</p> <p>2014 (February) SHU #2 Officer Morning 12 A.M. to 8 A.M. Day 8 A.M. to 4 P.M. Evening – 4 P.M. to Midnight Special Instructions</p>

Binder 3	
Joint 34	<p>2008 (January) SHU #3 Officer Day – 6 A.M. to 2 P.M. Evening – 2 P.M. to 10 P.M.</p> <p>2011 (June) SHU #3 Officer Day – 6 A.M. to 2 P.M. Evening – 1:45P.M. to 9:45 P.M.</p> <p>2012 (May) SHU #3 Officer Day 6 A.M. to 2 P.M. Evening – 1:45 P.M. to 9:45 P.M.</p> <p>2014 (February) SHU #3 Officer Day 6 A.M. to 2 P.M. Evening – 1:45 P.M. to 9:45 P.M.</p>
Joint 35	<p>2008 (January) SHU #4 Officer Day – 6 A.M. to 2 P.M. Evening – 2 P.M. to 10 P.M.</p> <p>2011 (June) SHU #4 Officer Day – 6 A.M. to 2 P.M. Evening – 1:45 P.M. to 9:45 P.M.</p> <p>2012 (May) SHU #4 Officer Day 6 A.M. to 2 P.M. Evening – 1:45 P.M. to 9:45 P.M.</p> <p>2014 (February) SHU #4 Officer Day 6 A.M. to 2 P.M. Evening – 1:45 P.M. to 9:45 P.M.</p>
Joint 36	<p>2007 (March) West Corridor Officer Day – 6 A.M. to 2 P.M. Evening – 2 P.M. to 10 P.M.</p> <p>2012 (July) West Corridor Officer Day – 6 A.M. to 2 P.M. Evening – 1:45 P.M. to 9:45 P.M.</p> <p>2012 (May) West Corridor Officer A/M Shift 6 A.M. to 2 P.M. Evening – 1:45 P.M. to 9:45 P.M.</p> <p>2014 (February) SHU #4 Officer A/M Shift 6 A.M. to 2 P.M. Evening – 1:45 P.M. to 9:45 P.M. Special Instructions</p>

Binder 4	
Joint 37	5 CFR.104 Definitions
Joint 38	5 CFR 555.401 Basic Principles
Joint 39	Daily Assignment Roster – May 12, 2013
Joint 40	Daily Assignment Roster – May 13, 2013 (This exhibit is helpful to figure out how many people worked on the various shifts.)
Joint 41	Discs with Post Orders (4 CDs of post orders)
Joint 42	HRM P3000.03 Program Statement
Joint 43	Eric Farmer’s Quarterly and Daily Assignment Cards (July 6, 2010 to July 19, 2014) 10/9/15 Union appends 1 page; replace page 1
Joint 44	Jason Mizell Quarterly and Daily Assignment Cards (January 1, 2010 to July 19, 2014)
Joint 45	Jason Shannon Rosters: Quarterly and Daily Rosters, Assignment Cards Supplemented 12/7/15
Joint 46	Position Description for GS-7 Senior Officer
Joint 47	Position Description for GS-8 Senior Officer Specialist
Joint 48	Control Inventory – USP (Subject to Protective Order)
Joint 49	Jason Inness Roster – Quarterly Assignment Card and Daily Assignment Card
Joint 50	USP Housing Unit A-1 Inventory (Subject to Protective Order)
Joint 51	Jessica Fuentes Roster – Quarterly Assignment Card and Daily Assignment Card
Joint 52	Nicholas DeBellevue – Quarterly Assignment Card and Daily Assignment Card
Joint 53	Tower 8/Central Tower Inventory (Subject to Protective Order)
Joint 54	Photos (4) taken in Tower 8 (Subject to Protective Order)
Joint 55	James Byrd Rosters - Quarterly Assignment Card and Daily Assignment Card
Joint 56	Protective Order
Joint 57	Adam Smith Rosters - Quarterly and Daily Assignment Cards
Joint 58	David Paulk Rosters - Quarterly and Daily Assignment Cards
Joint 59	Danny Daniels Roster - Quarterly and Daily Assignment Cards
Joint 60	Shawn Morrison – Quarterly and Daily Assignment Cards
Joint 61	Brandon Mayeaux – Quarterly and Daily Assignment Cards
Joint 62	SHU Inventory - USP (Subject to Protective Order)
Joint 63	Current Boot List
Joint 64	2014 (February) SHU # 7 Officer Specific Post Orders DW 8 a.m. to 4 p.m.

Binder 5	
Joint 65	Christopher Neal Rosters – Quarterly and Daily Assignment Cards
Joint 66	Michael Kaplan – Quarterly and Daily Assignment Cards
Joint 67	Donna Hughley – Quarterly and Daily Assignment Cards
Joint 68	Keith Walker – Quarterly and Daily Assignment Cards
Joint 69	Roderick Jones – Quarterly and Daily Assignment Cards
Joint 70	Clifton Dixon – Quarterly and Daily Assignment Cards
Joint 71	David Futrell – Quarterly and Daily Assignment Cards
Joint 72	Joel Walters – Quarterly and Daily Assignment Cards

Binder 5	
Joint 73	Jason Wheeler – Quarterly and Daily Assignment Cards
Joint 74	Joshua Lucas – Quarterly and Daily Assignment Cards
Joint 75	Jamie Mobley – Quarterly and Daily Assignment Cards
Joint 76	MC Equipment Cage Inventory (Subject to Protective Order)
Joint 77	Michael Lavalais – Quarterly and Daily Assignment Cards
Joint 78	Shane Gustafson – Quarterly and Daily Assignment Cards
Joint 79	Nicholas Tate – Quarterly and Daily Assignment Cards
Joint 80	Zina Washington – Quarterly and Daily Assignment Cards
Joint 81	Jacye Tullos – Quarterly and Daily Assignment Cards
Joint 82	Photos (7) of USP Control Center

Binder 6	
Joint 83	Photos (4) Control Center at FCI
Joint 84	FCI General Post Orders - 2010 and 2014
Joint 85	<p>FCI Compound #1 Officer – Specific Post Orders 2010 and 2014</p> <p>2010 Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p> <p>2014 (February) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p>
Joint 86	<p>FCI Compound Officer #2 – Specific Post Orders 2010 and 2014</p> <p>2010 Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p> <p>2014 (February) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p>
Joint 87	FCI Compound Officers Special Instructions 2009 (January) and 2014 (February)
Joint 88	<p>FCI Control Center #1 Officer – Specific Post Orders 2010 and 2014</p> <p>2010 (January) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p> <p>2014 (February) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p>

Binder 6	
Joint 89	<p>FCI Control Center #2 Officer – Specific Post Orders 2009 and 2014 2009 (April) Specific Post Orders AM shift 6 a.m. to 2 p.m. PM shift is 2 p.m. to 10 p.m.</p> <p>2014 (February) Specific Post Orders AM shift 6 a.m. to 2 p.m. PM shift 2 p.m. to 10 p.m.</p>
Joint 90	FCI Control Center Officers – Special Instructions 2010 (January)
Joint 91	<p>FCI Unit Officers – Special and Specific Post Orders 2014 2014 (February) Specific Post Orders FCI Unit Officer 1 (D1, D3, E1, E3, F1, F3) MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p> <p>2014 (February) Specific Post Orders FCI Unit Officer 2 (D2, D4, E2, E4, F2, F4) AM 6 a.m. to 2 p.m. PM 1:45 p.m. to 9:45 p.m.</p> <p>2014 (February) Special Instructions (D1, D2, D3, D4, E1, E2, E3, E4, F1, F2, F3, F4)</p>
Joint 92	FCI Unit Officers – Special Post Orders 2010
Joint 93	<p>FCI D 1 Unit Officer – Specific Post Orders 2010 2009 (April) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p>
Joint 94	<p>FCI D 2 Unit Officer – Specific Post Orders 2010 2009 (April) Specific Post Orders AM 6 a.m. to 2 p.m. PM 2 p.m. to 10 p.m.</p>
Joint 95	<p>FCI D 3 Unit Office – Specific Post Orders 2010 2009 (April) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p>
Joint 96	<p>FCI E 1 Unit Officer – Specific Post Orders 2010 2009 (April) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p>
Joint 97	<p>FCI E 2 Unit Officer - Specific Post Orders 2010 2009 (May) Specific Post Orders AM 6 a.m. to 2 p.m. PM 2 p.m. to 10 p.m.</p>

Binder 6	
Joint 98	FCI E 3 Unit Officer – Specific Post Orders 2010 2009 (May) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight
Joint 99	FCI E 4 Unit Officer – Specific Post Orders 2010 2009 (May) Specific Post Orders AM 6 a.m. to 2 p.m. PM 2 p.m. to 10 p.m.
Joint 100	FCI F 1 Unit Officer – Specific Post Orders 2010 2009 (April) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight
Joint 101	FCI F 2 Unit Officer – Specific Post Orders 2010 2009 (April) Specific Post Orders AM 6 a.m. to 2 p.m. PM 2 p.m. to 10 p.m.
Joint 102	FCI F 3 Unit Officer – Specific Post Orders 2010 2009 (April) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight
Joint 103	FCI F 4 Unit Officer – Specific Post Orders 2010 2009 (April) Specific Post Orders AM 6 a.m. to 2 p.m. PM 2 p.m. to 10 p.m.
Joint 104	FCI D-4 Officer Unit – Specific Post Orders 2010 2009 (April) Specific Post Orders AM 6 a.m. to 2 p.m. PM 2 p.m. to 10 p.m.
Joint 105	FCI SHU Rec Specific Post Orders 2010 and 2014 2010 (August) AM Shift is 6 a.m. to 2 p.m. PM Shift is 1:45 p.m. to 9:45 p.m. 2014 (February) AM shift is 6 a.m. to 2 p.m. PM Shift is 1:45 p.m. to 10 p.m. (report to Control at approximately 9:40 p.m.)
Joint 106	FCI SHU Officers Special Post Orders – 2010 (August) and 2014 (February)

Binder 6	
Joint 107	<p>FCI SHU Officer #1 Specific Post Orders 2010 and 2014</p> <p>2010 (August) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p> <p>2014 (February) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p>
Binder 7	
Joint 108	<p>FCI SHU Officer #2 Specific Post Orders 2010 and 2014</p> <p>2010 (August) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p> <p>2014 (February) Specific Post Orders MW 12 a.m. to 8 a.m. DW 8 a.m. to 4 p.m. EW 4 p.m. to 12 midnight</p>
Joint 109	<p>FCI SHU Officer #3 Specific Post Orders for 2010 and 2014</p> <p>2010 (August) AM Shift 6 a.m. to 2 p.m. PM Shift 1:45 p.m. to 9:45 p.m.</p> <p>2014 (February) AM Shift 6 a.m. to 2 p.m. PM Shift 1:45 p.m. to 9:45 p.m.</p>
Joint 110	<p>2010 FCI SHU Officer #4 Specific Post Orders 2010 and 2014</p> <p>2010 (August) Specific Post Orders AM Shift 6 a.m. to 2 p.m. PM Shift 1:45 p.m. to 9:45 p.m.</p> <p>2014 (February) AM Shift 6 a.m. to 2 p.m. PM Shift 1:45 p.m. to 9:45 p.m.</p>
Joint 111	<p>FCI SHU Officer #7 Specific Post Orders 2014</p> <p>2014 (February) Specific Post Orders DW 8 a.m. to 4 p.m.</p>
Joint 112	Two compact discs – FCI and USP lieutenant logs from 2010 and 2014, randomly selected dates
Joint 113	Neal Bordelon – Daily and Quarterly Assignments
Joint 114	Kevin Craft – Daily and Quarterly Assignments
Joint 115	Robert Lemoine – Daily and Quarterly Assignments

Binder 7	
Joint 116	Michael Bradshaw – Daily and Quarterly Assignments
Joint 117	Ron Johnson – Daily and Quarterly Assignments
Joint 118	Daniel Lonidier – Daily and Quarterly Assignments
Joint 119	Thomas Hataway – Daily and Quarterly Assignments
Joint 120	Robert Lacombe – Daily and Quarterly Assignments
Joint 121	Derek Garnett – Daily and Quarterly Assignments
Joint 122	Thomas Moore – Daily and Quarterly Assignments
Joint 123	Joshua St. Andre – Daily and Quarterly Assignments
Joint 124	Gerald Woodard – Daily and Quarterly Assignments

Binder 8	
Joint 125	Vernon Peters – Daily and Quarterly Assignments
Joint 126	Kyle Gotreaux – Daily and Quarterly Assignments
Joint 127	Daniel Stevens – Daily and Quarterly Assignments
Joint 128	Kevin Rabalais – Daily and Quarterly Assignments
Joint 129	Steven Strozier – Daily and Quarterly Assignments
Joint 130	Richard Logan – Daily and Quarterly Assignments
Joint 131	Brian Richmond – Daily and Quarterly Assignments 12/8/15 supplemented
Joint 132	Time and Distance Study jointly conducted by the parties
Joint 133	Emails, orders, etc. re videos
Joint 134	FCC Pollock Assignment Cards for Michael Melton when he served as a Lieutenant at FCI Pollock
Joint 135	Portal decision by Arbitrator Sherry Wetsch 2009
Joint 136	Lt. John Bacon’s Daily and Quarterly Assignments
Joint 137	Glen MacDonald Daily and Quarterly Assignments
Joint 138	Pamela Omelson Daily and Quarterly Assignments
Joint 139	Lt. Shawn Tipton Daily and Quarterly Assignments
Joint 140	See Binder 10
Joint 141	Daily Assignment Roster from March 26, 2015
Joint 142	Daily and Quarterly Assignments for Lt. Robert Ventura
Joint 143	Daily and Quarterly Assignments for Lt. Jermaine Darden
Joint 144	Daily and Quarterly Assignments for Lt. Prince Eben

Binder 9	
Joint 145	Daily and Quarterly Assignments for Lt. Oscar Mack
Joint 146	Daily and Quarterly Assignments for Lt. Sarina English
Joint 147	Daily and Quarterly Assignments for James Draves
Joint 148	Daily and Quarterly Assignments for Lt. Michael Havis
Joint 149	Memorandum dated 10/24/14
Joint 150	Chapter 9 Employee Misconduct Investigations dated August 1, 1995 (under seal and subject to Protective Order)
Joint 151	Daily and Quarterly Assignments for former Lt. Patrick Laborde (admitted 12/8/15)

Binder 9	
Joint 152	Electronic Search Agreement dated 11/9/07 (admitted 12/8/15)
Joint 153	Staff Entrance Procedures dated 1/28/08

Binder 10	
Joint 140	1 binder with daily rosters and lieutenant's logs for every date that video is displayed for shift exchanges

Union Exhibits

Union #1	Photo of map
Union #2	Data request submitted 3/31/15
Union #3	Agency response denying Union's data request
Union #4	LMR Minutes from March 11, 2010, June 17, 2010 and March 22, 2011 (19 pages)
Union #5	Settlement Agreement dated October 13, 2010 r
Union #6	Director Samuels' Correctional Pillars
Union #7	One video used by the Union as shown during the Agency's case-in-chief
Union #8	Spreadsheet for all posts at USP and who worked each shift during the week of May 18, 2013 (admitted 12/8/15)

Agency Exhibits

Agency #1	List of cameras at USP submitted 4/1/15 (under protective order)
Agency #2	USP Videos shown at the hearing and identified as: 2A Housing Unit A1 and A2 2B Housing Unit A3 and A4 2C Housing Unit B1 and B2 2D Housing Unit B3 and B4 2E Housing Unit C1 and C2 2F Housing Unit C3 and C4 2G Additional Housing Unit video 2H Tower 8 video 2I SHU 1 and SHU 2 video 2J Compound Officer video 2K Other video
Agency #3	FCI Videos (placeholder for videos that have been shown at the hearing) will be burned to discs and identified as: 3A FCI video
Agency #4	3/25/15 Release and waiver of representation signed by Jermaine Darden
Agency #5	Photos / still shots of staff entering and exiting USP
Agency #6	Inmate death incidents from 2008 to 2015
Agency #7	Lt. English's release and waiver of her right to recover any damages and right to representation
Agency #8	Screen shots of officers who have testified showing their arrival times and their exiting times at the FCI

Agency #9	Screen shots of officers who have testified showing their arrival times and their exiting times at USP
Agency #10	Chart
Agency #11	Screen grab of Officer Farmer (acting lieutenant on this evening) standing in front of grill (compound side) with officers departing at 9:37 p.m. Farmer says something to them while looking at his and they all appear to laugh.
Agency #12	Excel spreadsheet for SHU (Lt. Havis prepared)
Agency #13	Federal Bureau of Prisons – CORE Values
Agency #14	Rolodex entry for Erica Lindsey Miles (personal information redacted)
Agency #15	Comparison Chart of time in and time out – FCC Pollock, May 12-18, 2013
Agency # 16	July 30, 2014 Memorandum For All Staff from Complex Warden M.D. Carvajal and March 11, 2008 Memorandum For All Staff from Warden Joe Keffer re Portal-to-Portal Issues/Assigned Work Hours (admitted 1/5/16)

Pollock: Joint Exhibits and Descriptions

Award Appendix E

Comparison of officers' self-reported in- and out- times in 2014 to still photo camera in- and out- times from May 12-18, 2013 for USP

Union Exhibit 8 is a spreadsheet for all posts at USP showing officers who worked each shift during the week of May 12-18, 2013; see testimony of Officer Adam Smith, 12/8/15 (Tr. 94-109).

Agency Exhibit 9 is a chart of times from Attachment B to the Agency's post-hearing brief; see testimony of Lt. Bacon 10/7/15 (Tr. 46-63) reporting time in and time out based on still camera photos from May 12-18, 2013.

Post	Officer and shift	Self-reported times	Union Exhibit 8	Agency Exhibit 9
SHU #1 MW 12 to 8 a.m.	Morrison (MW) 8/22/14 Tr. 6, 21-23	8 hours, 30 minutes (Arrives 11:40 p.m. and leaves front lobby at 8:10 a.m.)	8 hours, 21 minutes (Arrives 11:34 p.m. and leaves 7:55 a.m.) 5/18/13	8 hours, 9 minutes (Arrives at 11:34 p.m. and leaves at 7:42 a.m.) Rides in a van pool with Lavalais 5/18/13
SHU #1 EW 4 p.m. to 12 mid- night	R. Jones (EW) 9/10/14 Tr. at 7, 16- 17	8 hours, 28-33 hours (Arrives between 3:35 and 3:40 p.m. and leaves lobby be- tween 12:03 and 12:08 a.m.)	8 hours, 13 minutes (Arrives 3:37 pm and leaves 11:50 p.m.) 5/17/13	8 hours, 13 minutes (Arrives at 3:37 p.m. and leaves at 11:50 p.m.) 5/17/13
SHU #2 MW 12 to 8 a.m.	Lavalais (MW) 9/12/14 Tr. at 6, 27	8 hours, 35 minutes (Arrives around 11:40 p.m. and leaves front lobby around 8:15 a.m.)	8 hours, 19 minutes (Arrives 11:32 p.m. and leaves 7:51 a.m.) 5/13/13 8 hours, 35 minutes (Arrives 11:35 p.m. and leaves 8:10 a.m.) 5/17/13	8 hours, 9 minutes (Arrives at 11:34 p.m. and leaves at 7:43 a.m.) 5/17/13 Rides in a vanpool with Morrison

Post	Officer and shift	Self-reported times	Union Exhibit 8	Agency Exhibit 9
SHU #4 As of June 2011 PM 1:45 to 9:45 p.m.	Dixon (PM) 9/10/14 Tr. at 74, 82-84	8 hours, 20-25 minutes (Arrives about 1:25 to 1:30 p.m. and leaves front lobby around 9:55 p.m.)	8 hours, 2 minutes (Arrives 1:36 p.m. and leaves 9:38 p.m.) 5/12/13 7 hours, 59 minutes (Arrives 1:34 pm and leaves 9:33 p.m.) 5/13/13 8 hours, 4 minutes (Arrives 1:41 p.m. and leaves 9:45 p.m.) 5/14/13 7 hours, 55 minutes (Arrives 1:42 p.m. and leaves at 9:37 p.m.) 5/15/13	8 hours, 2 minutes 1:36 p.m. to 9:38 p.m. 5/12/13 < 8 hours 1:34 p.m. to 9:33 p.m. 5/13/13 8 hours, 4 minutes 1:41 p.m. to 9:45 p.m. 5/14/13 < 8 hours 1:42 p.m. to 9:37 p.m. 5/15/13
SHU Rec PM as of Febru- ary 2014 1:45 to 9:45 p.m.	Futrell (PM) 9/10/14 Tr. at 119- 120, 132	8 hours, 15+ minutes (Arrives around 1:30 p.m. and leaves <u>SHU</u> around 9:35 to 9:40 p.m.)	8 hours, 10 minutes (Arrives 1:27 p.m. and leaves at 9:37 p.m.) 5/12/13 8 hours, 2 minutes (Arrives 1:31 p.m. and leaves at 9:33 p.m.) 5/13/13 8 hours 12 minutes (Arrives 1:32 p.m. and leaves at 9:44 p.m.) 5/14/13	8 hours, 10 minutes 1:27 p.m. to 9:27 p.m. 5/12/13 8 hours, 2 minutes 1:31 p.m. to 9:33 p.m. 5/13/13 8 hours, 12 minutes 1:32 p.m. to 9:44 p.m. 5/14/13

Post	Officer and shift	Self-reported times	Union Exhibit 8	Agency Exhibit 9
Com-pound Officer #2 EW 4 p.m. to 12 mid-night	Walters (EW) 9/10/14 Tr. 143-45, 148	8 hours, ~20 minutes (Arrives around 3:40 p.m. and moves to front lobby at 11 p.m. to relieve front lobby officer. Leaves as soon as his relief arrives for the MW (12 – 8 a.m.) shift.	7 hours, 30 minutes (Arrives 3:48 p.m. and leaves at 11:18 p.m.) 5/12/13 8 hours, 19minutes (Arrives 3:16 p.m. and leaves 11:35 p.m.) 5/13/13 8 hours, 8 minutes (Arrives 3:31 p.m. and leaves at 11:39 p.m.) 5/14/13 8 hours, 3 minutes (Arrives 3:38 p.m. and leaves 11:41 p.m.) 5/15/13 8 hours, 12 minutes (Arrives 1:37 p.m. and leaves 11:49 p.m.) 5/16/13	<8 hours 3:48 p.m. to 11:18 p.m. 5/12/13 Total time unclear but left at 11:39 p.m. 8 hours, 13 minutes 5/14/13 8 hours, 13 minutes 3:36 p.m. to 11:39 p.m. 5/17/13
Control Officer #2 AM 6 a.m. to 2 p.m.	Fuentes (AM) 8/20/14 Tr. 26, 29	8 hours, 40 minutes (Arrives at 5:30 a.m. and usually leaves at 2:10 p.m.)	Post not shown on Union Exhibit 8	8 hours, 1 minute 6:09 a.m. to 2:10 p.m.
Main Corridor Officer DW 8 a.m. to 4 p.m.	Farmer (DW) 7/17/14 Tr. 67, 76	Total time unclear but could be 8 hours, 15-20 minutes (Arrives around 7:30 a.m. and relief typically shows up before 4 p.m.)	Times not recorded on Union Exhibit 8 for Farmer on 5/13/13	8 hours, 9 minutes 7:37 a.m. to 3:46 p.m. 5/13/13

Post	Officer and shift	Self-reported times	Union Exhibit 8	Agency Exhibit 9
West Corridor Officer AM 6 a.m. to 2 p.m.	Fuentes (AM) 8/20/14 Tr. 54, 57-59	8 hours, 15-20 minutes (Arrives around 5:45 a.m. and leaves between 2 or 2:05 p.m.)	Fuentes not shown working on 5/12/13 on Union Exhibit 8	< 8 hours 6:04 a.m. to 1:59 p.m.
Front Entry AM 6 a.m. to 2 p.m.	Fuentes (AM) 8/20/14 Tr. 45, 51	8 hours, 15-20 minutes (Arrives about 5:45 a.m. and leaves around 1:55 to 2:00 p.m.)	Not shown as working on 5/15/13	< 8 hours 6:04 a.m. to 1:59 p.m.

Award Appendix F

Comparison of officers' self-reported in and out times in 2014 to still photo camera in- and out-times from May 12-18, 2013 for FCI

Agency report: See Agency Exhibit 8; Attachment A to Agency's post-hearing brief; and testimony of Lt. Bacon 10/7/15 (Tr. 17-45) reporting time in and time out based on still camera photos from May 12-18, 2013

Post	Officer and shift	Self-reported times	Agency report
SHU #1 EW 4 p.m. to 12 mid- night	Craft (EW) (4 p.m. to 12) 10/21/14 Tr. 73, 80	8 hours, 30-40 minutes (Arrives between 3:30 and 3:35 p.m. and leaves between 12:05 and 12:10 p.m.)	8 hours, 16 minutes 3:40 p.m. to 11:56 p.m.
SHU #2 MW 12 to 8 a.m.	Garnett (MW) (12 to 8 a.m.) 10/18/14 Tr. 77, 84	8 hours, 20-24 minutes (Arrives about 11:40 p.m. and leaves between 7:56 and 8 a.m.)	8 hours, 6 minutes (11:51 p.m. to 7:57 a.m.) 8 hours, 5 minutes (11:53 p.m. to 7:58 a.m.) 8 hours, 8 minutes (11:50 p.m. to 7:58 a.m.)
SHU #3 AM 6 a.m. to 2 p.m.	Lacombe (AM) (6 a.m. to 2 p.m.) 10/28/14 Tr. 36, 43	8 hours, 20-25 minutes (Arrives around 5:45 a.m. and leaves between 2:05 and 2:20 p.m.)	< 8 hours (6:01 a.m. to 1:51 p.m.) 8 hours (5:52 a.m. to 1:52 p.m.) < 8 hours (5:58 a.m. to 1:50 p.m.) < 8 hours (5:56 a.m. to 1:46 p.m.) < 8 hours (5:57 a.m. to 1:46 p.m.)
SHU #3 PM 1:45 p.m. to 9:45 p.m.	Moore (PM) (1:45 to 9:45 p.m.) 10/30/14 Tr. 18-19, 25	8 hours, 15-20 minutes (Arrives between 1:25 and 1:30 p.m. and leaves around 9:35 p.m. and ar- rives with count slip at Control Center around 9:40 p.m.; heads out at 9:45 p.m.)	No arrival time, left at 9:39 and scheduled depar- ture time was 9:45 p.m. Agency Exhibit 8, at 16

Post	Officer and shift	Self-reported times	Agency report
SHU #3 AM 6 a.m. to 2 p.m.	Rabalais (AM) (6 a.m. to 2 p.m.) 10/31/14 Tr. 12-13	8 hours, 10 minutes (Arrives around 5:50 a.m. and leaves between 1:45 to 1:50 p.m., sometimes closer to 2 p.m.)	< 8 hours (6:15 a.m. to 1:51 p.m.) 8 hours, 1 minute (5:52 a.m. to 1:53 a.m.) < 8 hours (5:58 a.m. to 1:50 p.m.) < 8 hours (6:00 a.m. to 1:45 p.m.)
SHU #4 AM 6 a.m. to 2 p.m.	Lacombe (AM) (6 a.m. to 2 p.m.) 10/28/14 Tr. 36, 43	8 hours, 20-25 minutes (Arrives around 5:45 a.m. and usually leaves about 2:05 to 2:10 p.m.)	< 8 hours (6:01 a.m. to 1:51 p.m.) 8 hours (5:52 a.m. to 1:52 p.m.) < 8 hours (5:58 a.m. to 1:50 p.m.) < 8 hours (5:56 a.m. to 1:46 p.m.) < 8 hours (5:57 a.m. to 1:46 p.m.)
SHU #4 AM 6 a.m. to 2 p.m.	Rabalais (AM) (6 a.m. to 2 p.m.) 10/31/14 Tr. 12-13	8 hours (Arrives around 5:50 a.m. and leaves around 1:45 to 1:50 p.m.)	< 8 hours (6:15 a.m. to 1:51 p.m.) 8 hours, 1 minute (5:52 a.m. to 1:53 a.m.) < 8 hours (5:58 a.m. to 1:50 p.m.) < 8 hours (6:00 a.m. to 1:45 p.m.)
SHU Rec AM 6 a.m. to 2 p.m.	Lacombe (AM) (6 a.m. to 2 p.m.) 10/28/14 Tr. 36, 43	8 hours, 20-25 minutes (Arrives around 5:45 a.m. and leaves about 2:05 or 2:20 p.m.)	< 8 hours (6:01 a.m. to 1:51 p.m.) 8 hours (5:52 a.m. to 1:52 p.m.) < 8 hours (5:58 a.m. to 1:50 p.m.) < 8 hours (5:56 a.m. to 1:46 p.m.) < 8 hours (5:57 a.m. to 1:46 p.m.)
SHU Rec AM 6 a.m. to 2 p.m.	Rabalais (AM) (6 a.m. to 2 p.m.) 10/31/14 Tr. 12-13	8 hours (Arrives around 5:50 a.m. and leaves around 1:45 to 1:50 p.m.)	< 8 hours (6:15 a.m. to 1:51 p.m.) 8 hours, 1 minute (5:52 a.m. to 1:53 a.m.) < 8 hours (5:58 a.m. to 1:50 p.m.) < 8 hours (6:00 a.m. to 1:45 p.m.)

Post	Officer and shift	Self-reported times	Agency report
Compound Officer #1 MW 12 to 8 a.m.	Garnett (MW) (12 to 8 a.m.) 10/28/14 Tr. 85-86, 89	8 hours, 15 minutes (Arrives around 11:50 p.m. and leaves around 8:05 a.m.)	8 hours, 6 minutes (11:51 p.m. to 7:57 a.m.) 8 hours, 5 minutes (11:53 p.m. to 7:58 a.m.) 8 hours, 8 minutes (11:50 p.m. to 7:58 a.m.)
Compound Officer #1 DW 8 a.m. to 4 p.m.	Woodard (DW) 10/29/14 Tr. 87-88, 93	8 hours, 27-29 minutes (Arrives about 7:40 am. And leaves around 4:07 to 4:09 p.m.)	< 8 hours (9:29 a.m. to 3:51 p.m.) Lt. Bacon's table indicates that Officer Woodard's schedule that day was 9:30 a.m. to 4 p.m.)
Compound Officer #2 MW 12 to 8 a.m.	Garnett (MW) (12 to 8 a.m.) 10/28/14 Tr. 89, 92	8 hours, 15 minutes (Arrives around 11:50 p.m. and leaves around 8:05 a.m.)	8 hours, 6 minutes (11:51 p.m. to 7:57 a.m.) 8 hours, 5 minutes (11:53 p.m. to 7:58 a.m.) 8 hours, 8 minutes (11:50 p.m. to 7:58 a.m.)
Control Officer #2 AM 6 a.m. to 2 p.m.	Rabalais (AM) (6 a.m. to 2 p.m.) 10/31/14 Tr. 17, 20	8 hours, 5-10 minutes (Arrives about 5:50 a.m. and leaves about 1:55 to 2:00 p.m.)	< 8 hours (6:15 a.m. to 1:51 p.m.) 8 hours, 1 minute (5:52 a.m. to 1:53 a.m.) < 8 hours (5:58 a.m. to 1:50 p.m.) < 8 hours (6:00 a.m. to 1:45 p.m.)
Control Officer #2 AM 6 a.m. to 2 p.m.	Hataway (AM) (6 a.m. to 2 p.m.) 10/28/14 Tr. 15, 18	8 hours, 15 minutes (Arrives by 5:45 a.m. and usually leaves at 2 p.m.)	8 hours, 2 minutes (5:45 a.m. to 1:47 p.m.) 8 hours, 4 minutes (5:50 a.m. to 1:54 p.m.) < 8 hours (5:53 a.m. to 1:31 p.m.) < 8 hours (5:55 a.m. to 1:40 p.m.)
Housing Unit D-1 MW 12 to 8 a.m.	Garnett (MW) (12 to 8 a.m.) 10/28/14 Tr. 77, 84	8 hours, 20 minutes (Arrives around 11:40 p.m. and leaves around 7:56 or 8 a.m.)	8 hours, 6 minutes (11:51 p.m. to 7:57 a.m.) 8 hours, 5 minutes (11:53 p.m. to 7:58 a.m.) 8 hours, 8 minutes (11:50 p.m. to 7:58 a.m.)

Post	Officer and shift	Self-reported times	Agency report
Housing Unit D-3 MW 12 to 8 a.m.	Garnett (MW) 10/28/14 Tr. 77, 84	8 hours, 20 minutes (Arrives around 11:40 p.m. and leaves around 7:56 or 8 a.m.)	8 hours, 6 minutes (11:51 p.m. to 7:57 a.m.) 8 hours, 5 minutes (11:53 p.m. to 7:58 a.m.) 8 hours, 8 minutes (11:50 p.m. to 7:58 a.m.)
Housing Unit D-3 DW 8 a.m. to 4 p.m.	Woodard (DW) (8 a.m. to 4 p.m.) 10/29/14 Tr. 77-78, 87	8 hours, 32-35 minutes (Arrives about 7:40 a.m. and leaves about 4:12 to 4:15 p.m.)	< 8 hours (9:29 a.m. to 3:51 p.m.) Lt. Bacon's table indicates that Officer Woodard's schedule that day was 9:30 a.m. to 4 p.m.)
Housing Unit E-1 MW 12 to 8 a.m.	Garnett (MW) 10/28/14 Tr. 77, 84	8 hours, 20 minutes (Arrives around 11:40 p.m. and leaves around 7:56 or 8 a.m.)	8 hours, 6 minutes (11:51 p.m. to 7:57 a.m.) 8 hours, 5 minutes (11:53 p.m. to 7:58 a.m.) 8 hours, 8 minutes (11:50 p.m. to 7:58 a.m.)
Housing Unit E-1 EW 4 p.m. to 12)	Craft (EW) 10/21/14 (4 p.m. to 12) Tr. 92, 96	8 hours, 15 minutes (Arrives around 3:35 p.m. and leaves about 12:05 a.m.)	8 hours, 16 minutes 3:40 p.m. to 11:56 p.m.
Housing Unit E-2 PM 1:45 p.m. to 9:45 p.m.	Walker (PM) (1:45 to 9:45 p.m.) 10/28/14 Tr. 106, 114	8 hours, 15 minutes (Arrives around 1:30 to 1:40 p.m. and leaves around 9:40 p.m.)	8 hours, 7 minutes (1:38 p.m. to 9:45 p.m.) (Joint Exhibit 97 Post Orders state that PM shift is 2 p.m. to 10 p.m.)
Housing Unit E-3	Garnett (MW) 10/28/14 Tr. 77, 84	8 hours, 20 minutes (Arrives around 11:40 p.m. and leaves around 7:56 or 8 a.m.)	8 hours, 6 minutes (11:51 p.m. to 7:57 a.m.) 8 hours, 5 minutes (11:53 p.m. to 7:58 a.m.) 8 hours, 8 minutes (11:50 p.m. to 7:58 a.m.)
Housing Unit E-3	Craft (EW) 10/21/14 Tr. 92, 96	8 hours, 15 minutes (Arrives around 3:35 p.m. and leaves about 12:05 a.m.)	8 hours, 16 minutes 3:40 p.m. to 11:56 p.m.

Post	Officer and shift	Self-reported times	Agency report
Housing Unit E-4	Walker (PM) (1:45 to 9:45 p.m.) 10/28/14 Tr. 106, 115	8 hours 15 minutes (Arrives around 1:30 to 1:40 p.m. and leaves around 9:40 p.m.)	8 hours, 7 minutes (1:38 p.m. to 9:45 p.m.)
Housing Unit F-2	Walker (PM) 10/28/14 Tr. 106, 115	8 hours 15 minutes (Arrives around 1:30 to 1:40 p.m. and leaves around 9:40 p.m.)	8 hours, 7 minutes (1:38 p.m. to 9:45 p.m.)
Housing Unit F-4	Walker (PM) 10/28/14 Tr. 106, 115	8 hours 15 minutes (Arrives around 1:30 to 1:40 p.m. and leaves around 9:40 p.m.)	8 hours, 7 minutes (1:38 p.m. to 9:45 p.m.)

Award Appendix G
List of USP and FCI 24-hour, 16-hour and 8-hour posts

24-hour posts at USP

MW: Morning Watch (12 midnight to 8 a.m.)

DW: Day Watch (8 a.m. to 4 p.m.)

EW: Evening Watch (4 p.m. to 12 midnight)

Post	Notes
SHU #1	
SHU #2	
Compound #1	No testimony that Compound #1 EW worked after their assigned hours of duty. Union Brief at 34.
Compound #2 But now is AM/PM shift	8/22/14 Tr. 121-122 Parties stipulated that Compound #2 changed from a 24-hour post to a 16-hour post at USP Pollock on December 15, 2013.
Control Center #1	
Main Corridor Officer	
Housing Unit A1, A2, A3, A4	
Housing Unit B1, B2, B3, B4	
Housing Unit C1, C2, C3, C4	
Center Tower/Tower 8 #1 Officer	

Notes: All equipment is kept on the post. Officers on 24-hour posts do not stop at the Control Center to obtain equipment.

24-hour posts at FCI

Post	Notes
SHU #1	
SHU #2	
Compound #1	
Compound #2	
Control #1	Officers assigned to Control should not encounter inmates unless they are arriving and in the lobby under escort.
Housing Unit D1	
Housing Unit D3	
Housing Unit E1	
Housing Unit E3	
Housing Unit F1	
Housing Unit F3	

Notes: All equipment is kept on the post. Officers on 24-hour posts do not stop at the Control Center to obtain equipment.

16-hour posts at USP

AM: 6 a.m. to 2 p.m.

PM: 1:45 p.m. to 9:45 p.m. or 2 p.m. to 10 p.m.

Post	Shift hours	Notes
SHU #3	Joint 34 Post Orders for SHU #3 As of January 2008, PM was 2 p.m. to 10 p.m. As of June 2011, PM was 1:45 p.m. to 9:45 p.m.	Equipment is picked up at Control Center by AM officer. PM officer returns equipment. This position is not relieving anyone.
SHU #4	Joint 35 Post Orders for SHU #4 As of January 2008, PM was 2 p.m. to 10 p.m. As of June 2011, PM was 1:45 p.m. to 9:45 p.m.	Equipment is picked up at Control Center by AM officer.
SHU Rec	Joint 31 Post Orders for SHU Rec As of May 2012, PM was 2 p.m. to 10 p.m. As of February 2014, PM was 1:45 p.m. to 9:45 p.m.	
Compound #2	Joint 20 Compound #2 Post Orders As of July 2012, MW, DW, EW As of February 2014, AM (6 a.m. to 2 p.m.) and PM was 1:45 to 9:45 p.m.	Parties stipulated that Compound #2 changed from a 24-hour post to a 16-hour post at USP Pollock on December 15, 2013. 8/22/14 Tr. 121-122
Control #2	Joint 25 Control #2 Post Orders 2014 (February) AM 6 a.m. to 2 p.m. PM 2 p.m. to 10 p.m. Note: Officer Dixon testified that PM hours for Control #2 were 1:45 to 9:45 p.m. 10/21/14, Tr. 48. Control #2 heads to USP Control Center to turn in the key count. Union Brief at 94, 10/23/14, Tr. 49, testimony of Adam Smith	
West Corridor	Joint 36 Post Orders for West Corridor Officer As of March 2007, PM was 2 p.m. to 10 p.m. As of July 2012, PM was 1:45 p.m. to 9:45 p.m.	
East Corridor	Joint 26 Post Orders for East Corridor Officer As of December 2006, AM shift and PM (2 p.m. to 10 p.m.) As of May 2012, AM shift and PM was 1:45 p.m. to 9:45 p.m.	

Post	Shift hours	Notes
Center Tower/Tower 8 #2	Joint 23 Compound Tower #2 Post Orders AM (6 a.m. to 2 p.m.) PM (2 p.m. to 10 p.m.)	
Compound Rover	Joint 21 USP Compound Rover Post Orders As of December 2008, AM was 8 a.m. to 4 p.m. and PM was 4 p.m. to 12 midnight As of May 2012, AM was 8 am to 4 pm and PM was 2:15 to 10:15 p.m. (AM/PM on weekends, PM only on weekdays)	
Front Entry\Lobby	AM 6 a.m. to 2 p.m. PM 1:45 p.m. to 9:45 p.m.	Union no longer claims compensation for this post. See Union Brief at 56.

Notes: Generally, AM officers pick up keys and/or equipment at the Control Center in exchange for their chits. PM officers stop at the Control Center to exchange their chits for the outgoing officer. Once on the post, the officers exchange chits and conduct a shift change relief. AM officer then leaves the facility without stopping at Control.

16-hour posts at FCI

AM (6 a.m. to 2 p.m.)
PM (1:45 p.m. to 9:45 p.m.)

Post	Shift hours / Post Orders	Notes
SHU #3	August 2010 PM shift is 1:45 p.m. to 9:45 p.m. No relief. Joint 109 Post Orders	Equipment is picked up at Control Center by AM officer. AM officer is not relieving anyone.
SHU #4	August 2010 PM shift is 1:45 p.m. to 9:45 p.m. No relief. Joint 110 Post Orders	Equipment is picked up at Control Center by AM officer. AM officer is not relieving anyone.
SHU Rec	2010 (August) PM 1:45 p.m. to 9:45 p.m. 2014 (February) PM Shift is 1:45 p.m. to 10 p.m. (report to Control at approximately 9:40 p.m. to turn in equipment), 9:45 p.m. tour of duty ends. No relief. Joint 105 Post Orders	Equipment is picked up at Control Center by AM officer. AM officer is not relieving anyone.
Control #2	Joint 89 AM shift is 6 a.m. to 2 p.m. PM shift is 2 p.m. to 10 p.m.	Union asserts that #2 took key count paperwork to USP after the end of their shift. Agency says key count should be taken 15-20 minutes before end of shift. Union asserts in Reply Brief at p. 7 that this procedure was changed during the hearing
Housing Unit D2	AM shift is 6 a.m. to 2 p.m. PM shift is 2 p.m. to 10 p.m.	AM officer should be at Housing Unit at 6 a.m. to get keys from odd-side officer. See Housing Unit post orders, Joint Exhibits 93-104 PM officer should be at Housing Unit at 2 p.m. to relieve AM officer. PM officers lock up equipment and leave keys with odd-side officer. See Housing Unit post orders, Joint Exhibits 93-104
Housing Unit D4	AM shift is 6 a.m. to 2 p.m. PM shift is 2 p.m. to 10 p.m.	AM officer should be at Housing Unit at 6 a.m. to get keys from odd-side officer. PM officer should be at Housing Unit at 2 p.m. to relieve AM officer. PM officers lock up equipment and leave keys with odd-side officer. See Housing Unit post orders, Joint Exhibits 93-104

Post	Shift hours / Post Orders	Notes
Housing Unit E2	AM shift is 6 a.m. to 2 p.m. PM shift is 2 p.m. to 10 p.m.	AM officer should be at Housing Unit at 6 a.m. to get keys from odd-side officer. PM officer should be at Housing Unit at 2 p.m. to relieve AM officer. PM officers lock up equipment and leave keys with odd-side officer. See Housing Unit post orders, Joint Exhibits 93-104
Housing Unit E4	AM shift is 6 a.m. to 2 p.m. PM shift is 2 p.m. to 10 p.m.	AM officer should be at Housing Unit at 6 a.m. to get keys from odd-side officer. PM officer should be at Housing Unit at 2 p.m. to relieve AM officer. PM officers lock up equipment and leave keys with odd-side officer. See Housing Unit post orders, Joint Exhibits 93-104
Housing Unit F2	AM shift is 6 a.m. to 2 p.m. PM shift is 2 p.m. to 10 p.m.	AM officer should be at Housing Unit at 6 a.m. to get keys from odd-side officer. PM officer should be at Housing Unit at 2 p.m. to relieve AM officer. PM officers lock up equipment and leave keys with odd-side officer. See Housing Unit post orders, Joint Exhibits 93-104
Housing Unit F4	AM shift is 6 a.m. to 2 p.m. PM shift is 2 p.m. to 10 p.m.	AM officer should be at Housing Unit at 6 a.m. to get keys from odd-side officer. PM officer should be at Housing Unit at 2 p.m. to relieve AM officer. PM officers lock up equipment and leave keys with odd-side officer. See Housing Unit post orders, Joint Exhibits 93-104

Notes: Even-side AM officers do not stop at the Control Center. The AM officer reports to the odd-side officer and obtains keys. The AM officer then walks over to the even-side of the housing unit and gets his equipment from the equipment cage. The AM officer for the even-side housing unit begins his or her compensable day when he or she gets his equipment from the equipment cage at the even-side housing unit.

When even-side PM officers leave at 9:45 p.m., the PM officer locks up his equipment and gives his keys to the even-side officer.

8-hour posts at USP

Post	Shift hours / Post Orders	Notes
SHU #7	February 2015 Post Orders Joint 111 DW 8 a.m. to 4 p.m.	This position is sometimes filled
Facilities Corridor Officer (DW)	DW 7:15 a.m. – 3:45 p.m.	Union no longer seeks compensation for this post 9/9/14 Tr. 137
Compound Rover	Works 8 hours PM on week-days AM/PM on weekends	Agency brief at 55-56 8-hour posts begin at Control, thus walking time is subsumed in their workday

8-hour posts at FCI

Post	Shift hours / Post Orders	Notes
SHU #7	This position is sometimes filled	See Agency brief at 55-56 8-hour posts begin at Control, thus most walking time is subsumed in their workday

Eight-hour posts at the USP and FCI are staffed as needed. The Agency stipulated that the compensable day for 8-hour posts at both the USP and FCI starts when the officer picks up his or her equipment at the Control Center and ends when the equipment is returned to the Control Center.

**Award Appendix H
(Joint Exhibit 42)**

**P3000.3 HRM Manual
12/19/2007**

610.1 INSTITUTION SHIFT STARTING AND STOPPING TIMES

1. PURPOSE AND SCOPE. To establish basic parameters for shift starting and stopping times for employees working at Bureau institutions and the procedures to establish these practices at all Bureau institutions.
2. COVERAGE. This section applies to all institution employees who are required to pick up keys or other equipment while passing through control on their way to their assigned duty post.
3. CRITERIA. Each institution shall have approved work schedules with shift starting and stopping times, for employees who work at the institution, to begin and end at the point employees pick-up and drop-off equipment (keys, radios, body alarms, work detail pouches, etc.) at the control center. Therefore, employees who pick-up equipment at the control center, shall have their shifts scheduled to their assigned duty post and return (at the end of the shift). If an employee arrives at the key line in a reasonable time to get equipment by the beginning of the shift, this employee is not to be considered late.
4. PROCEDURES. Institution posts that meet the above criterial must have approved rosters which meet required shift starting and stopping times. Wardens shall formulate a plan for all affected posts. *Union participation at the local and regional levels in formulating plans is strongly encouraged.* The Warden must submit a plan to his/her appropriate Regional Director **only if the plan includes an overlap in work schedules.** The plan, at a minimum, will include the following:
 - a. List of affected positions / duty posts;
 - b. Complete custodial roster;
 - c. Detailed summary of any costs incurred by the implementation of this plan.
5. SCHEDULE APPROVAL AND IMPLEMENTATION. The authority to approve the work schedules rests with the Regional Director. Once approval is received, each Warden shall ensure that requirements for shift starting and stopping times, and details of the approved institution plan, are clearly communicated to all institution employees. If at any time the schedule needs to be revised, follow procedures stated in this section.
6. SCHEDULING CONSIDERATIONS
 - a. An institution employee whose shift starts at 7:30 a.m. must be at the control center and have received his/her equipment no later than 7:30 a.m. to be considered "on time" for the start of his/her shift. To accomplish this, each location should ensure minimum waiting time for the employee in the key line.

If that same employee's shift ends at 4:00 p.m., he/she should drop-off his/her keys/equipment at the control center at 4:00 p.m., the scheduled quitting time. Reasonable travel time to and from the duty post to the control center would be compensable as part of the employee's tour of duty. Local supervisors should establish expectations that require employees to arrive and leave their duty post in a timely and reasonable manner. If an employee arrives at the key line in a reasonable time to get equipment prior to the shift, but does not receive the equipment by the beginning of the shift because of unforeseen circumstances, this employee is not to be considered late.

b. Due to these parameters, schedules may have to be adjusted and shifts overlapped for posts which require relief, as employees must be given time to arrive later and leave posts earlier to be at the control center on time. The length of time necessary to provide the overlap depends on the post location and the reasonable travel time to and from the control center to that post.

c. Although waiting time in key lines prior to the beginning of a shift is not "work time", such waiting time is to be reduced to a minimum to assist a smooth transition from shift-to-shift and more timely and predictable movement from the control center to the post. One way to accomplish this is through staggered shift starting and stopping times for day positions and placing additional personnel in the control center during busy shift changes. Another option is to assign equipment and keys to posts. If appropriate, assign key ring to 24-hour posts instead of requiring staff to wait in key line to exchange their chit upon arriving and departing work.

d. Physical layout of facilities is to be taken into consideration when establishing a work schedule.

(Items d through h were not reproduced. Bold is in original, italics are mine - MCT)

Award Appendix I

Relevant provisions from the statute and OPM regulations

The statute - Fair Labor Standards Act (FLSA)

29 U.S.C. § 254 Portal-to-Portal Act

29 U.S. Code § 254 - Relief from liability and punishment under the Fair Labor Standards Act of 1938, the Walsh-Healey Act, and the Bacon-Davis Act for failure to pay minimum wage or overtime compensation

(a) Activities not compensable. Except as provided in subsection (b), no employer shall be subject to any liability or punishment under the Fair Labor Standards Act of 1938, as amended [29 U.S.C. 201 et seq.], the Walsh-Healey Act, or the Bacon-Davis Act, [1] on account of the failure of such employer to pay an employee minimum wages, or to pay an employee overtime compensation, for or on account of any of the following activities of such employee engaged in on or after May 14, 1947—

- (1) walking, riding, or traveling to and from the actual place of performance of the principal activity or activities which such employee is employed to perform, and
- (2) activities which are preliminary to or postliminary to said principal activity or activities, which occur either prior to the time on any particular workday at which such employee commences, or subsequent to the time on any particular workday at which he ceases, such principal activity or activities. For purposes of this subsection, the use of an employer's vehicle for travel by an employee and activities performed by an employee which are incidental to the use of such vehicle for commuting shall not be considered part of the employee's principal activities if the use of such vehicle for travel is within the normal commuting area for the employer's business or establishment and the use of the employer's vehicle is subject to an agreement on the part of the employer and the employee or representative of such employee.

OPM Regulations

§ 551.101 General.

- (a) The Fair Labor Standards Act of 1938, as amended (referred to as "the Act" or "FLSA"), provides minimum standards for both wages and overtime entitlements, and administrative procedures by which covered worktime must be compensated. Included in the Act are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the Act exempts specified employees or groups of employees from the application of certain of its provisions and prescribes penalties for the commission of specifically prohibited acts.
- (b) This part contains the regulations, criteria, and conditions set forth by the Office of Personnel Management (OPM) as prescribed by the Act, supplements and implements the Act, and must be read in conjunction with it.
- (c) OPM's administration of the Act must comply with the terms of the Act but the law does not require OPM's regulations to mirror the Department of Labor's FLSA regulations. OPM's administration of the Act must be consistent with the Department of Labor's administration of the Act only to the extent practicable and only to the extent that this consistency is required

to maintain compliance with the terms of the Act. For example, while OPM's executive, administrative, and professional exemption criteria are consistent with the Department of Labor's exemption criteria, OPM does not apply the highly compensated employee criteria in 29 CFR 541.601 to determine FLSA exemption status.

§ 551.104 Definitions.

In this part -

Act or FLSA means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201et seq.).

Hours of work means all time spent by an employee performing an activity for the benefit of an agency and under the control or direction of the agency. Hours of work are creditable for the purpose of determining overtime pay under subpart D of this part. Section 551.401 of subpart D further explains this term. However, whether time is credited as hours of work is determined by considering many factors, such as the rules in subparts D and E of this part, provisions of law, Comptroller General decisions, OPM decisions and policy guidance, agency policy, negotiated agreements, the rules in part 550 of this chapter (for hours of work for travel), and the rules in part 410 of this chapter (for hours of work for training).

§ 551.401 Basic principles.

(a) All time spent by an employee performing an activity for the benefit of an agency and under the control or direction of the agency is "hours of work." Such time includes:

- (1) Time during which an employee is required to be on duty;
- (2) Time during which an employee is suffered or permitted to work; and
- (3) Waiting time or idle time which is under the control of an agency and which is for the benefit of an agency.

§ 551.412 Preparatory or concluding activities.

(a)

(1) If an agency reasonably determines that a preparatory or concluding activity is closely related to an employee's principal activities, and is indispensable to the performance of the principal activities, and that the total time spent in that activity is more than 10 minutes per workday, the agency shall credit all of the time spent in that activity, including the 10 minutes, as hours of work.

(2) If the time spent in a preparatory or concluding activity is compensable as hours of work, the agency shall schedule the time period for the employee to perform that activity. An employee shall be credited with the actual time spent in that activity during the

time period scheduled by the agency. In no case shall the time credited for the performance of an activity exceed the time scheduled by the agency. The employee shall be credited for the time spent performing preparatory or concluding activities in accordance with paragraph (b) of § 551.521 of this part.

(b) A preparatory or concluding activity that is not closely related to the performance of the principal activities is considered a preliminary or postliminary activity. Time spent in preliminary or postliminary activities is excluded from hours of work and is not compensable, even if it occurs between periods of activity that are compensable as hours of work.

**Award Appendix J
Joint Time and Distance Study
(Joint Exhibit 132)
USP**

Location	Union Rec- orded Time	Mgmt. Rec- orded Time	Distance
Front Door to Control Sallyport	31 seconds	31 seconds	87 feet
Control Sallyport Door to Main Compound Door	3:49	3:49	358
Main Compound Door to SHU Sallyport	2:44	2:44	330
Main Compound Door to A Unit	6:28	6:28	332
Main Compound Door to B Unit	4:58	4:58	959
Main Compound Door to C Unit	4:32	4:32	922
Lower to Upper Unit (Stairway)	33 seconds	33 seconds	32 steps
Main Compound Door to Tower	2:28	2:28	449
Main Corridor to West Corridor	2:54	2:54	451
Main Compound to East Corridor	1:20	1:20	203
Main Corridor to Facilities	2:56	2:56	402

FCI

Location	Union Rec- orded Time	Mgmt. Rec- orded Time	Distance
Front Door to Control Sallyport	41 seconds	41 seconds	112 feet
Control Sallyport to Compound Officer Station	2:33	2:33	392
Control Sallyport to Traffic Circle	3:04	3:04	687
Control Sallyport to Food Service Entrance Door	5:55	5:55	1051
Control Sallyport to D-Unit	5:12	5:12	1042
Control Sallyport to E-Unit	4:46	4:46	1013
Control Sallyport to F-Unit	5:05	5:05	1064
Control Sallyport to SHU Sallyport	4:12	4:12	798
Housing Unit Stairs	37 seconds	37 seconds	55 steps

(The original exhibit was handwritten and is transcribed as Appendix J.)

Award Appendix K**List of USP Posts and witness testimony with dates**

Created and updated by the arbitrator and provided to the parties during the course of the hearing

USP Posts, Shifts, and Witnesses

Unit	Time	Time	Time
SHU Officer #1 Agency witnesses: Lt. John Bacon 3/31/15 Deputy Captain Glen MacDonald for all SHU changes 4/1/15	MW (12 midnight to 8 a.m.) Shawn Morrison 8/22/14	DW (8 a.m. to 4 p.m.) Brandon Mayeaux 8/22/14	EW (4 p.m. to 12 mid- night) Shane Gustafson 9/12/14 Roderick Jones 9/10/14
SHU Officer #2	MW (12 midnight to 8 a.m.) Michael Lavalais 9/12/14	DW (8 a.m. to 4 p.m.) Danny Daniels 8/22/13 Brandon Mayeaux 8/22/14	EW (4 p.m. to 12 mid- night) Shane Gustafson 9/12/14 Michael Kaplan 9/9/14 Jayce Tullos 10/20/14
SHU Officer #3	AM (6 a.m. to 2 p.m.) Danny Daniels 8/22/14 Brandon Mayeaux 8/22/14 Nicholas Tate 9/12/14 Robert Lemoine 10/22/14	PM (2 p.m. to 10 p.m.) Keith Walker 9/9/14 Clifton Dixon 9/10/14	

Unit	Time	Time	Time
SHU Officer #4	AM (6 a.m. to 2 p.m.) Danny Daniels 8/22/14	PM (2 p.m. to 6 a.m.) Jessica Fuentes 8/20/14 Clifton Dixon 9/10/14	
SHU Officer #7	MW (12 midnight to 8 a.m.) Joel Walters 9/10/14	DW (8 a.m. to 4 p.m.) Brandon Mayeaux 8/22/14	EW (4 p.m. to 12 mid- night)
SHU Recreation Of- ficer	AM (6 a.m. to 2 p.m.) Michael Kaplan 9/9/14	PM (2 p.m. to 10 p.m.) Michael Kaplan 9/9/14 Roderick Jones 9/10/14 Clifton Dixon 9/10/14 David Futrell 9/10/14	
Compound Officer #1 Joint 19 Agency witnesses: Lt. John Bacon 3/31/15 Deputy Captain Glen MacDonald 4/1/15	MW (12 midnight to 8 a.m.) Jason Mizell 7/18/14	DW (8 a.m. to 4 p.m.) Jason Mizell 7/18/14 David Paulk 8/21/14 Eric Farmer 7/17/14	EW (4 p.m. to 12 mid- night) Jason Mizell 7/18/14 David Paulk 8/21/14 Joel Walters 9/10/14

Unit	Time	Time	Time
<p>Compound Officer #2 Joint 20</p> <p>Used to be MW, DW and EW. Now AM and PM shifts.</p> <p>Agency witness: Lt. John Bacon 3/31/15</p>	<p>AM (6 a.m. to 2 p.m.)</p> <p>Eric Farmer 7/17/14</p> <p>MW (12 midnight to 8 a.m.)</p> <p>Jamie Mobley 9/11/14</p>	<p>PM (2 p.m. to 10 p.m.)</p> <p>Joel Walters 9/10/14</p> <p>DW (8 a.m. to 4 p.m.)</p> <p>David Paulk 8/21/14</p>	<p>EW (4 p.m. to 12 midnight)</p> <p>David Paulk 8/21/14</p> <p>Roderick Jones 9/10/14</p> <p>Joel Walters 9/10/14</p>
<p>Control Officer #1 Tab 24</p> <p>Agency witness Deputy Captain Glen MacDonald 4/1/15</p>	<p>MW (12 midnight to 8 a.m.)</p> <p>Nicholas Tate 9/12/14</p> <p>Zina Washington 10/20/14</p>	<p>DW (8 a.m. to 4 p.m.)</p> <p>Jessica Fuentes 8/20/14</p> <p>Jason Shannon 8/19/14</p>	<p>EW (4 p.m. to 12 midnight)</p> <p>Adam Smith 8/21/14</p> <p>Zina Washington 10/20/14</p>
<p>Control Officer #2 Tab 25</p> <p>Agency witness: Deputy Captain Glen MacDonald 4/1/15</p>	<p>AM (6 a.m. to 2 p.m.)</p> <p>Jessica Fuentes 8/20/14</p> <p>Jason Shannon 8/19/14</p>	<p>PM (2 p.m. to 10 p.m.)</p> <p>Keith Walker 9/9/14</p> <p>Nicholas Tate 9/12/14</p> <p>Zina Washington 10/20/14</p>	

Unit	Time	Time	Time
Main Corridor Officer Joint 29 Agency witnesses: Lt. John Bacon 3/31/15 Deputy Captain Glen MacDonald 4/1/15	MW (12 midnight to 8 a.m.) Jason Wheeler 9/11/14 Jamie Mobley 9/11/14	DW (8 a.m. to 4 p.m.) Eric Farmer 7/17/14 David Paulk 8/21/14 Shane Gustafson 9/12/14	EW (4 p.m. to 12 midnight) Joshua Lucas 9/11/14
West Corridor Officer	AM (6 a.m. to 2 p.m.) Jessica Fuentes 8/20/14	PM (2 p.m. to 10 p.m.) Keith Walker 9/9/14	
East Corridor Officer	AM (6 a.m. to 2 p.m.) Brandon Mayeaux 8/22/14	PM (2 p.m. to 10 p.m.) Brandon Mayeaux 8/22/14 Clifton Dixon 9/10/14	
Facilities Corridor Officer Joint 27 9/9/14 TR. at 137 Union stipulates that “we will not be pursuing a claim for the USP on the Facilities Corridor day. Investigation has revealed there is – there is not a portal issue for that post and that shift.”		DW (7:15 a.m. to 3:45 p.m.) Eric Farmer 7/17/14	

Unit	Time	Time	Time
A 1 Housing Unit Agency witness for all HUs: Deputy Captain Glen MacDonald 4/1/15	MW (12 midnight to 8 a.m.) Jason Inness 8/19/14	DW (8 a.m. to 4 p.m.) Jason Inness 8/19/14 Jessica Fuentes 8/20/14 Christopher Neal 9/9/14 Joshua Lucas 9/11/14 Jayce Tullos 10/20/14	EW (4 p.m. to 12 mid-night) Jason Inness 8/19/14 Christopher Neal 9/9/14 Jayce Tullos 10/20/14
A 2 Housing Unit	AM (6 a.m. to 2 p.m.) Weekends & holidays Jason Inness 8/19/14 Christopher Neal 9/9/14	PM (2 p.m. to 10 p.m.) Weekends & holidays Weekdays Jason Inness 8/19/14 Christopher Neal 9/9/14	
A 3 Housing Unit			
A 4 Housing Unit			

Unit	Time	Time	Time
B 1 Housing Unit	MW (12 midnight to 8 a.m.) Jason Inness 8/19/14	DW (8 a.m. to 4 p.m.) Jason Inness 8/19/14 Jessica Fuentes 8/20/14 Christopher Neal 9/9/14 Donna Hughley 9/9/14 Jayce Tullos 10/20/14	EW (4 p.m. to 12 mid-night) Jason Inness 8/19/14 Christopher Neal 9/9/14 Joshua Lucas 9/11/14 Jayce Tullos 10/20/14
B 2 Housing Unit	AM (6 a.m. to 2 p.m.) Weekends & holidays only Jason Inness 8/19/14	PM (2 p.m. to 10 p.m.) Weekdays and week-ends/holidays Jason Inness 8/19/14	
B 3 Housing Unit			
B 4 Housing Unit			
C 1 Housing Unit	MW (12 midnight to 8 a.m.) Jason Mizell 7/18/14 Jason Inness 8/19/14 Nicholas DeBellevue 8/20/14	DW (8 a.m. to 4 p.m.) Jason Inness 8/19/14 Jessica Fuentes 8/20/14 Nicholas DeBellevue 8/20/14 Jayce Tullos 10/20/14	EW (4 p.m. to 12 mid-night) Jason Inness 8/19/14 Roderick Jones 9/10/14 Jamie Mobley 9/11.14 Jayce Tullos 10/20/14
C 2 Housing Unit	AM (6 a.m. to 2 p.m.) Jason Inness 8/19/14	PM (2 p.m. to 10 p.m.) Jason Inness 8/19/14	
C 3 Housing Unit			

Unit	Time	Time	Time
C 4 Housing Unit			
Center Tower #1 Officer/ Compound Tower #1/ Tower 8 Agency witness: Deputy Captain Glen MacDonald 4/1/15	MW (12 midnight to 8 a.m.) Jason Wheeler 9/11/14 Nicholas Tate 9/12/14	DW (8 a.m. to 4 p.m.) James Byrd 8/20/14 Jayce Tullos 10/20/14	EW (4 p.m. to 12 mid- night) Jayce Tullos 10/20/14 Robert Lemoine 10/22/14
Center Tower #2 Of- ficer Compound Tower #2 Tower 8	AM (6 a.m. to 2 p.m.) Jason Shannon 8/19/14 Nicholas DeBellevue 8/20/14 Danny Daniels 8/22/14 Robert Lemoine 10/22/14	PM (2 p.m. to 10 p.m.) Nicholas Tate 9/12/14 Robert Lemoine 10/22/14	
Compound Rover	AM on weekends DW (12 midnight to 8 a.m.) Shane Gustafson 9/12/14	PM on Weekends David Paulk 8/21/14 Keith Walker 9/9/14 (weekends or weekdays, check TR?) Joel Walters 9/10/14	PM weekdays
Front Entry Agency witness: Deputy Captain Glen MacDonald 4/1/15	AM (6 a.m. to 2 p.m.) Jessica Fuentes 8/20/14	PM (2 p.m. to 10 p.m.) Jessica Fuentes 8/20/14 Keith Walker 9/9/14	

30 posts

Updated 11/1/14, 4/1/15

Award Appendix L**List of FCI Posts and witness testimony with dates**

Created and updated by the arbitrator and provided to the parties during the course of the hearing

FCI Posts, Shifts, and Witnesses

Unit	Time	Time	Time
SHU Officer #1	MW (12 midnight to 8 a.m.) Michael Bradshaw 10/22/14 Thomas Hataway 10/28/14	DW (8 a.m. to 4 p.m.) Ron Johnson 10/22/14	EW (4 p.m. to 12 midnight) Kevin Craft testimony 10/21/14 Tr. 73 arrives at 3:30 to 3:35 p.m. Tr. 80 leaves at 12:05 to 12:10 p.m. Total time: 8 hours, 30-40 minutes Michael Bradshaw 10/22/14 Daniel Stevens 10/29/14 Steven Strozier 10/30/14
SHU Officer #2	MW (12 midnight to 8 a.m.) Derek Garnett testimony 10/28/14 Tr. 77 arrives about 11:40 p.m. Tr. 84 leaves between 7:56 and 8 a.m. Total time: 8 hours, 20-24 minutes	DW (8 a.m. to 4 p.m.) Neal Bordelon 10/21/14 Ron Johnson 10/22/14 Kevin Rabalais 10/31/14	EW (4 p.m. to 12 midnight) Michael Bradshaw 10/22/14 Steven Strozier 10/30/14

Unit	Time	Time	Time
SHU Officer #3	<p data-bbox="532 233 797 300">AM (6 a.m. to 2 p.m.)</p> <p data-bbox="532 375 708 443">Neal Bordelon 10/21/14</p> <p data-bbox="532 485 688 552">Ron Johnson 10/22/14</p> <p data-bbox="532 594 789 661">Robert Lacombe testimony 10/28/14</p> <p data-bbox="532 661 784 728">Tr. 36 usually arrives at 5:45 a.m.</p> <p data-bbox="532 728 784 831">Tr. 43 leaves between 2:05 and 2:10 p.m.</p> <p data-bbox="532 831 773 898">Total time: 8 hours, 20-25 minutes</p> <p data-bbox="532 940 784 1008">Kevin Rabalais testimony 10/31/14</p> <p data-bbox="532 1008 789 1075">Tr. 12 arrives roughly 5:50 a.m.</p> <p data-bbox="532 1075 794 1178">Tr. 13 leaves about 1:45 to 1:50 sometimes closer to 2 p.m.</p> <p data-bbox="532 1178 784 1222">Total time: < 8 hours</p>	<p data-bbox="820 233 1084 300">PM (1:45 p.m. to 9:45 p.m.)</p> <p data-bbox="820 342 1081 409">Thomas Moore testimony 10/30/14</p> <p data-bbox="820 409 1068 512">Tr. 18-19 arrives between 1:25 and 1:30 p.m.</p> <p data-bbox="820 512 1068 688">Tr. 25 leaves around 9:35 p.m. and takes count slip to Control Center about 9:40 p.m.</p> <p data-bbox="820 688 1062 831">Tr. 26 Finish turning in equipment and heading out at 9:45 p.m.</p> <p data-bbox="820 831 1057 898">Total time: 8 hours, 15-20 minutes</p>	

Unit	Time	Time	Time
SHU Officer #4	<p data-bbox="532 233 797 300">AM (6 a.m. to 2 p.m.)</p> <p data-bbox="532 375 708 443">Neal Bordelon 10/21/14</p> <p data-bbox="532 485 789 552">Robert Lacombe testimony 10/28/14</p> <p data-bbox="532 558 789 625">Tr. 36 arrives usually at 5:45 a.m.</p> <p data-bbox="532 632 789 699">Tr. 43 leaves usually about 2:05, 2:10 p.m.</p> <p data-bbox="532 705 789 772">Total time: 8 hours, 20-25 minutes</p> <p data-bbox="532 842 708 909">Daniel Stevens 10/29/14</p> <p data-bbox="532 951 716 1018">Thomas Moore 10/30/14</p> <p data-bbox="532 1060 789 1127">Kevin Rabalais testimony 10/31/14</p> <p data-bbox="532 1134 789 1264">Tr. 12 arrives for SHU 3, 4 and Rec AM roughly the same time at 5:50 a.m.</p> <p data-bbox="532 1270 789 1371">Tr. 13 leaves approximately 1:45 to 1:50 p.m.</p> <p data-bbox="532 1377 789 1402">Total time: < 8 hours</p>	<p data-bbox="820 233 1029 300">PM (1:45 p.m. to 9:45 p.m.)</p> <p data-bbox="820 342 964 409">Jayce Tullos 10/20/14</p> <p data-bbox="820 451 992 518">Kyle Gotreaux 10/29/14</p> <p data-bbox="820 560 1003 627">Steven Strozier 10/30/14</p>	
SHU Officer #7 Agency brief at 7 Occasionally filled and is generally an 8-hour post with no relief			

Unit	Time	Time	Time
SHU Recreation Officer	<p>AM (6 a.m. to 2 p.m.)</p> <p>Robert Lacombe testimony 10/28/14 Tr. 44 arrival and leaving times for SHU 3, 4, and Rec are the same Total time: 8 hours, 20-25 minutes</p> <p>Kyle Gotreaux 10/29/14</p> <p>Kevin Rabalais testimony 10/31/14 Tr. 12-13 Tends to come in and leave at same time for SHU 3, 4, and Rec (5:50 a.m. to 1:45 or 1:50 p.m.) Total time: < 8 hours</p>	<p>PM (1:45 p.m. to 9:45 p.m.)</p> <p>Michael Bradshaw 10/22/14</p> <p>Ron Johnson 10/22/14</p> <p>Kyle Gotreaux 10/29/14</p>	
<p>Compound Officer #1</p> <p>Their office is inside Lt. Complex, inside Compound grill Agency brief at 7</p> <p>Officer should be in Compound office at start of shift</p>	<p>MW (12 midnight to 8 a.m.)</p> <p>Derek Garnett testimony 10/28/14 Tr. 85-86 Must be in Compound Office at 12 midnight Tr. 86 usually arrives at 11:50 p.m. Tr. 89 leaves around 8:05 a.m. Total time: 8 hours, 15 minutes</p>	<p>DW (8 a.m. to 4 p.m.)</p> <p>Ron Johnson 10/22/14</p> <p>Joshua St. Andre 10/28/14</p> <p>Gerald Woodard Testimony 10/29/14 Tr. 87-88 typically arrives at 7:40 a.m. Tr. 93 leaves approximately 4:07 to 4:09 p.m. Total time: 8 hours, 27-29 minutes</p> <p>Jason Shannon 10/30/14</p>	<p>EW (4 p.m. to 12 midnight)</p> <p>Robert Lemoine 10/22/14</p> <p>Shane Gustafson 10/22/14</p> <p>Daniel Stevens 10/29/14</p>

Unit	Time	Time	Time
Compound Officer #2	MW (12 midnight to 8 a.m.) Derek Garnett testimony 10/28/14 Relief made in the lobby Tr. 89 Arrives around 11:50 p.m. and Tr. 92 leaves around 8:05 a.m. Total time: 8 hours, 15 minutes	DW (8 a.m. to 4 p.m.) Joshua St. Andre 10/28/14 Vernon Peters 10/29/14	EW (4 p.m. to 12 midnight) Shane Gustafson 10/22/14
Control Officer #1	MW (12 midnight to 8 a.m.) Adam Smith 10/23/14	DW (8 a.m. to 4 p.m.) Robert Lacombe 10/28/14 Jason Shannon 10/30/14	EW (4 p.m. to 12 midnight) Zina Washington 10/20/14 Adam Smith 10/23/14

Unit	Time	Time	Time
Control Officer #2	AM (6 a.m. to 2 p.m.) Michael Bradshaw 10/22/14 Thomas Hataway testimony 10/28/14 Tr. 15 arrives usually by 5:45 a.m. Tr. 18 leaves usually at 2 p.m. Total time: 8 hours, 15 minutes Vernon Peters 10/29/14 Jason Shannon 10/30/14 Kevin Rabalais testimony 10/31/14 Tr. 17 arrives roughly about 5:50 a.m. Tr. 20 leaves about 1:55 to 2 p.m. Total time: 8 hours, 10 minutes	PM (2 p.m. to 10 p.m.) Clifton Dixon 10/21/14	
D 1 Housing Unit	MW (12 midnight to 8 a.m.) Derek Garnett testimony 10/28/14 Tr. 77 arrives around 11:40 p.m. Tr. 84 leaves around 7:56 or 8 a.m. Total time 8 hours, 20 minutes	DW (8 a.m. to 4 p.m.) Gerald Woodard 10/29/14 Vernon Peters 10/29/14	EW (4 p.m. to 12 midnight) Daniel Stevens 10/29/14 (has not worked this post since 9/10)
D 2 Housing Unit	AM (6 a.m. to 2 p.m.) Kevin Craft 10/21/14		

Unit	Time	Time	Time
D 3 Housing Unit	MW (12 midnight to 8 a.m.) Derek Garnett testimony 10/28/14 Tr. 77 arrives around 11:40 p.m. Tr. 84 leaves around 7:56 or 8 a.m. Total time 8 hours, 20 minutes	DW (8 a.m. to 4 p.m.) Gerald Woodard testimony 10/29/14 Tr. 77 must be in the housing unit at 8 a.m. Tr. 77-78 arrives about 7:40 a.m. Tr. 87 leaves about 4:12 to 4:15 p.m. Total time: 8 hours, 32-35 minutes Vernon Peters 10/29/14	EW (4 p.m. to 12 midnight) Daniel Stevens 10/29/14
D 4 Housing Unit	AM (6 a.m. to 2 p.m.) Kevin Craft 10/21/14		
E 1 Housing Unit	MW (12 midnight to 8 a.m.) Derek Garnett testimony 10/28/14 Tr. 76 usually arrives about 11:40 p.m. Tr. 84 usually leaves between 7:56 to 8 a.m. Total time: 8 hours, 20 minutes	DW (8 a.m. to 4 p.m.) Kevin Craft 10/21/14 Robert Lacombe 10/28/14 Joshua St. Andre 10/28/14 Kyle Gotreaux 10/29/14 Vernon Peters 10/29/14 Daniel Stevens 10/29/14 (has not worked this post since 9/10)	EW (4 p.m. to 12 midnight) Kevin Craft testimony 10/21/14 Tr. 92 arrives around 3:35 p.m. Tr. 96 leaves about 12:05 a.m. Total time: 8 hours, 15minutes Kyle Gotreaux 10/29/14

Unit	Time	Time	Time
E 2 Housing Unit	<p data-bbox="532 233 797 300">AM (6 a.m. to 2 p.m.)</p> <p data-bbox="532 342 735 409">Joshua St. Andre 10/28/14</p> <p data-bbox="532 451 706 518">Kyle Gotreaux 10/29/14</p>	<p data-bbox="820 233 1075 300">PM (1:45 to 9:45 p.m.)</p> <p data-bbox="820 342 1075 800">Keith Walker testimony 10/28/14 (has not worked this recently) Tr. 106 arrives about 1:30 to 1:40 p.m. Tr. 114 even-side of-ficer brings count slips to Control Center Around 9:40 p.m. Total time: 8 hours, 5-10 minutes</p>	
E 3 Housing Unit	<p data-bbox="532 842 787 909">MW (12 midnight to 8 a.m.)</p> <p data-bbox="532 951 787 1228">Derek Garnett testimony 10/28/14 Tr. 76 arrives around 11:40 p.m. Tr. 84 leaves around 7:56 to 8 a.m. Total time: 8 hours, 20 minutes</p>	<p data-bbox="820 842 1075 909">DW (8 a.m. to 4 p.m.)</p> <p data-bbox="820 982 1075 1045">Kevin Craft testimony 10/21/14</p> <p data-bbox="820 1129 1075 1192">Robert Lacombe 10/28/14</p> <p data-bbox="820 1234 1075 1297">Joshua St. Andre 10/28/14</p> <p data-bbox="820 1339 1075 1402">Kyle Gotreaux 10/29/14</p> <p data-bbox="820 1444 1075 1507">Vernon Peters 10/29/14</p> <p data-bbox="820 1549 1075 1612">Daniel Stevens 10/29/14</p>	<p data-bbox="1107 842 1362 909">EW (4 p.m. to 12 midnight)</p> <p data-bbox="1107 951 1362 1262">Kevin Craft testimony 10/21/14 Tr. 92 arrives around 3:35 p.m. Tr. 96 leaves about 12:05 a.m. Total time: 8 hours, 15 minutes</p> <p data-bbox="1107 1304 1362 1367">Kyle Gotreaux 10/29/14</p>

Unit	Time	Time	Time
E 4 Housing Unit	<p data-bbox="532 233 797 300">AM (6 a.m. to 2 p.m.)</p> <p data-bbox="532 342 735 409">Joshua St. Andre 10/28/14</p> <p data-bbox="532 447 706 514">Kyle Gotreaux 10/29/14</p>	<p data-bbox="820 233 1084 300">PM (1:45 to 9:45 p.m.)</p> <p data-bbox="820 342 1052 409">Keith Walker testimony 10/28/14</p> <p data-bbox="820 415 1073 478">Tr. 106 arrives about 1:30 to 1:40 p.m.</p> <p data-bbox="820 485 1078 615">Tr. 115 dropping off count slips at Control at 9:40 p.m. and can leave</p> <p data-bbox="820 621 1057 688">Total time: 8 hours, 5-10 minutes</p>	
F 1 Housing Unit		<p data-bbox="820 768 1084 835">DW (8 a.m. to 4 p.m.)</p> <p data-bbox="820 909 1027 1014">Kevin Craft testimony 10/21/14</p> <p data-bbox="820 1020 1068 1083">Tr. 81 arrives at 7:35 or 7:40 a.m.</p> <p data-bbox="820 1089 1052 1152">Tr. 92 leaves about 4:05 p.m.</p> <p data-bbox="820 1159 1057 1226">Total time: 8 hours, 25-30 minutes</p> <p data-bbox="820 1266 1019 1333">Joshua St. Andre 10/28/14</p> <p data-bbox="820 1373 998 1440">Daniel Stevens 10/29/14</p>	<p data-bbox="1107 768 1317 835">EW (4 p.m. to 12 midnight)</p> <p data-bbox="1107 875 1328 942">Michael Bradshaw 10/22/14</p> <p data-bbox="1107 982 1279 1050">Vernon Peters 10/29/14</p>

Unit	Time	Time	Time
F 2 Housing Unit	AM (6 a.m. to 2 p.m.) Joshua St. Andre 10/28/14 Kyle Gotreaux 10/29/14 Vernon Peters 10/29/14 Daniel Stevens 10/29/14	PM (2 p.m. to 10 p.m.) Kevin Craft 10/21/14 Michael Bradshaw 10/22/14 Keith Walker testimony 10/28/14 Tr. 106 arrives about 1:30 to 1:40 p.m. Tr. 115 dropping off count slips at Control at 9:40 p.m. and can leave Total time: 8 hours, 5-10 minutes	
F 3 Housing Unit		DW (8 a.m. to 4 p.m.) Kevin Craft testimony 10/21/14 Tr. 81 arrives at 7:35 or 7:40 a.m. Tr. 92 leaves about 4:05 p.m. Total time: 8 hours, 25-30 minutes Joshua St. Andre 10/28/14 Daniel Stevens 10/29/14	EW (4 p.m. to 12 midnight) Michael Bradshaw 10/22/14 Vernon Peters 10/29/14

Unit	Time	Time	Time
F 4 Housing Unit	AM (6 a.m. to 2 p.m.)	PM (10 p.m. to 6 a.m.)	
	Joshua St. Andre 10/28/14	Kevin Craft 10/21/14	
	Kyle Gotreaux 10/29/14	Michael Bradshaw 10/22/14	
	Vernon Peters 10/29/14	Keith Walker testimony 10/28/14	
	Daniel Stevens 10/29/14	Tr. 106 arrives about 1:30 to 1:40 p.m. Tr. 115 dropping off count slips at Control at 9:40 p.m. and can leave Total time: 8 hours, 5-10 minutes	

22 posts

7/18/17

Award Appendix M
Summary of Agency Brief Attachments C through M for Relief Times

Location	Number of observations	Number of different dates	Shifts observed	Relief took 2 minutes or less	Relief took more than 10 minutes
USP Housing Units A2, A3 Attachment C	12	9	MW, DW, EW	9 or 75%	0
USP Housing Units A2, A3, A4, B1, B2, B3 Attachment D	47	27	MW, DW, EW	29 or 62%	0
USP Housing Unit C1 Attachment E	9	9	MW, DW, EW	6 or 66%	0
USP Housing Units B3, B4 Attachment F	14	12	MW, DW, EW	11 or 79%	0
USP Housing Unit C2, C3, C4 Attachment G	27	16	MW, DW, EW,	14 or 52%	0
USP Housing Units C4, A3, A4, B1, B2, B3, B4 Attachment H	28	28	MW, DW, EW	20 or 71%	0
Total HU	137			89 or 65%	0
USP SHU Attachment I	9	9	DW, EW	5 or 56%	0
USP SHU Attachment J	24	13		7 or 29%	0
Total SHU	33			12 or 36%	0
USP Center Tower Attachment K	9	6	MW, DW, EW, PM	2 or 22%	0
USP Munitions Attachment L	11	5	MW, DW, EW	7 or 64%	0 (3 unable to determine)
USP Munitions Attachment M	6	3	MW, EW, PM	1 of 17%	1 (4 unable to determine)
Total observations	196			111 or 57%	

Award Appendix N
Cases Cited

- Abbey v. United States*, No. 07-272C, slip op. at 13 (Fed. Cl. Dec. 1, 2015).
- FCI Allenwood*: Fed. Corr. Inst., Allenwood, Pa. and AFGE Local 4047, 65 F.L.R.A. 996 (2011).
- Alvarez: IBP, Inc., v. Alvarez*, 546 U.S. 21 (2005).
- FCI Atwater I*: United States Penitentiary, Atwater, Cal., and AFGE Local 1242, 68 F.L.R.A. 857 (2015).
- FCI Bastrop*: Fed. Corr. Inst., Bastrop, Tex., and AFGE Local 3828, 69 F.L.R.A. 176 (2016).
- FCC Beaumont*: AFGE Local 1010 v. FCC Beaumont, Tex., FMCS No. 15-54685 (Arb. McKee, January 17, 2017).
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- FCI Danbury: AFGE Local 1661 v. Fed. Corr. Inst., Danbury, Conn.*, FMCS No. 15-01738-7 (Arb. Ward, March 15, 2017).
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- Lesane v. Winter*, 866 F. Supp. 2d 1, 7-8 (D.D.C. 2011)
- FMC Lexington: Fed. Med. Ctr., Lexington, Ky., and AFGE Local 817*, 68 F.L.R.A. 932 (2015).
- Lindow v. United States*, 738 F.2d 1057 (9th Cir. 1984).
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- FTC Okla. City: AFGE Local 171 v. Fed. Transfer Ctr., Oklahoma City, Okla.*, FMCS No. 14-56494 (Arb. Halter, July 29, 2016).

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Steiner v. Mitchell, 350 U.S. 247 (1956).

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