

VOLUNTARY ARBITRATION PROCEEDINGS
FEDERAL MEDIATION AND CONCILIATION SERVICE
FILE NO. 01-09793

IN THE MATTER OF THE ARBITRATION BETWEEN :
: U.S. Department of Justice :
Federal Detention Center : OPINION AND
Oakdale, Louisiana :
: AND : AWARD
: American Federation of Govt. Employees :
Local 1007 :
Oakdale, Louisiana :

APPEARANCES -

For the Union

Donald D. Turner, President

For the Employer

Loretta A. Burke, Labor Relations Specialist

This Arbitration was held on January 8, 2002 at the conference room of the Training Center of the Employer's facility in Oakdale, Louisiana.

Witnesses were sworn. The parties were afforded a full opportunity to present evidence and examine and cross-examine witnesses.

SAMUEL D. WANG
ARBITRATOR
2204 Boston Dr.
Fort Smith, AR 72901

ARBITRATION

The grievance in this matter was filed on December 15, 2000. It contends that the Employer, the Federal Bureau of Prisons, Federal Detention Center has violated the provisions of Article 18, Section f. of the Master Agreement. The basis for that contention is the Employer's refusal of a roster committee for the Correctional Counselors working in "Unit Management" at the Oakdale, Louisiana facility.

The event that precipitated the complaint was the action of the Employer in moving certain correctional counselors from their current units to other unit assignments. The explanation for this move was the need to expose those employees to a variety of offenders and enhance their effectiveness while benefiting their career development.

THE UNION'S POSITION

The Union argues that the operational unit known as "Unit Management" is one department and therefore the employees in the "department" are entitled to a roster committees so they can choose their assignment, shift and days off as is done in other departments.

The Union presented evidence that the Unit Management is working under a single budget, that it is evaluated as one department, it has one mission and was recognized as a single department in a Memorandum from the Warden issued on April 24, 2000.

THE EMPLOYER'S POSITON

The Employer responds to the Union's position by pointing out that the housing units are each supervised by a Unit Manager and are considered as Unit Management staff. The Unit Manager is their department head. The Employer responded to the grievance by contending that the attempt to separate the unit staffs by establishing work rosters flies in the face of the intent of the Article 18, Section f. language.

The Employer relies on the Unit Management Manual which was negotiated in 1999, as supporting its position that unit management should not in, and of itself, be considered one department for roster procedures. It also cites the provisions of the Bargaining Agreement establishing Management Rights and other language.

THE ISSUE

The Issue to be decided is whether the four units in the Unit Management organization constitute a "Department" requiring a roster committee under the provisions of Article 18, Section f. If the answer is yes, what is the proper remedy?

COLLECTIVE BARGAINING AGREEMENT LANGUAGE

The parties are familiar with the language of the Agreement so I will not burden this Opinion and Award with all of that language.

I have referred to the following provisions in reaching a decision:

- Article 3 - Governing Regulations
- Article 5 - Rights of the Employer
- Article 9 - Negotiations at the Local Level
- Article 18 - Hours of Work (especially Section d and Section f)
- Article 31 - Grievance Procedure
- Article 32 - Arbitration (especially Section h)

DISCUSSION

Both parties to this dispute presented interesting and thought-provoking evidence, both testimonial and written to support their respective positions.

It should be noted at the outset that until the matter of transferring employees from one unit to another arose, the parties were quite content to operate under the so-called "four departments" concept. Each of the four housing units functioned independently of each other with each reporting to the Assistant Warden and each taking its share of the Unit Management budget. This still holds true today.

The Union stated that it had waived the need for a roster committee up until the time of the Employer's institution of the rotation program.

I am not convinced that that was a waiver as such. I am inclined to conclude that it was recognized by both the Union and the Employer that the four units were separate entities. The units did and still do operate independently of each other, doing similar but different work.

Does the fact that all the units are reviewed at one time make that a single Department? One might think it does. Even though they are separate and distinct units they do all report to the one head. But that is typical of many organizations. Many units report to one manager but they are not all considered as one entity.

Does calling it a "Unit" preclude it from being a department? What's in a name? It is the function and the purpose of the entity that determines its true character. So, "Unit" or "small department" or whatever it may be called, it is still a small operating unit, with its individual mission and its own peculiar make-up and activities.

Does the single budget relegate the four units into one department? Not if the budget is sub-divided into individual budgets assigned to each unit and that unit is held accountable for that budget.

Does the memorandum of April 24, 2000 assigning "Departments" to cover various periods of the dining room service establish the Warden's consideration of the Unit Management organization as a department? That memorandum could just as easily be interpreted to mean several entities since the reference is to a "Team" which could be taken as a group made up from several units.

It must be accepted that the Employer has the right to

determine the organization and number of employees required to achieve the mission of the facility. This carries with it the right to assign work and direct the work force. This is clearly spelled out in Agency Exhibit #8 and in the Management's Rights clause of the Collective Bargaining Agreement (Article 5).

It simply follows, then that the reassigning of the counselors was well within the rights of the Employer.

The reassignment is beneficial to the efficient operation of the various housing units since it implements a cross-training of employees.

On the other hand, the principal factor which sets each of the units apart from the other is the uniqueness of the work each is responsible for and the variety of inmates each deals with.

As observed earlier, the various factors such as the one budget, the single review and evaluation and commonality of the mission of each unit tend to give the impression of a single operating unit. But when the budget is broken down and allocated to each part, when the parts are reviewed individually to equate a common evaluation for Unit Management and when one looks at the different work performed with different inmates the conclusion that results tell us that these are four distinct units.

But when the Employer now interrelates those distinct units by commingling the employees and eliminating the uniqueness of

the work, inmates dealt with and the physical location where the employees perform their work, a different picture emerges from that which was first portrayed.

Now we have the appearance of one unit with four parts, all working under one manager with four "unit managers" and the integration of the staff into all four units.

But, the so-called orientation or training program was announced to be a short term program with an intended purpose of familiarizing staff counselors with duties in other units. If that is all that was done then the integrity of the four units has not been violated and they remain as four separate and distinct units.

Simply placing employees in other work areas for training purposes does not create a whole new organization. If this were a permanent relocation of people or if it were a system initiated to avoid giving all employees an opportunity to advance in their career paths, then it would have the effect of changing the character of the organization.

So, since the organization has not been disturbed, it is logical to conclude that the housing units constitute four separate units and are not components of a single department.

However, I caution the Employer that it is walking a tight line between a reorganization and a temporary reassignment for

training purposes. If the reassignments for training go beyond a year, they more than likely are permanent and this would be equivalent to merging all four units into one department.

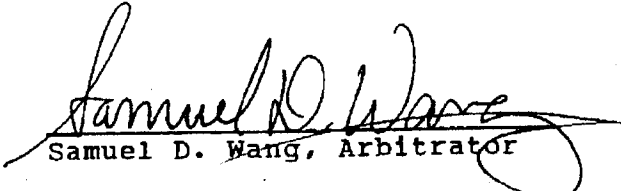
CONCLUSION

Based on the facts presented I conclude that the four units are currently separate units and not elements of a single department.

AWARD

The Grievance is denied.

Made and entered this 15th day of March, 2002, at Fort Smith, Arkansas.


Samuel D. Wang, Arbitrator