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In the Matter of Arbitration between the)	
)	
American Federation of Government)	
Employees)	
Council of Prison Locals)	0-AR-4650
Local 4052, Union)	FMCS: 09-02417
)	
and)	
)	
U. S. Department of Justice)	
Federal Bureau of Prisons)	
MDC Guaynabo, Agency)	
_____)	

DECISION ON REMEDY

On August 18, 2012, the Arbitrator ordered the Agency to furnish documentary evidence in support of its claim that enforcement of the *2001 Settlement* agreement would constitute abrogation of management’s right to assign the workforce. The Agency complied.

The Agency’s submission shows that the current staff of correctional officers is fully assigned: there are, on average, 97 Officers available to fill 97 posts.¹ The Agency’s submissions also show that 8 of the prison’s housing units nearly always exceed the 150 inmate threshold for which, under the *2001 Settlement*, the assignment of a second officer was promised. The Agency’s contention is that complying with the *2001 Settlement* (a) will require that, on a typical day, 24 Officers (8 housing units multiplied by 3 shifts) be taken off their regular posts and (b) doing so would effectively abrogate management’s right to assign its correctional officers.

The Agency has not shown that compliance with the *2001 Settlement* through the assignment of officers on overtime will result in such abrogation. The Arbitrator directs the Agency to comply with the *2001 Settlement*.

Mark Lurie, Arbitrator
October 15, 2012

¹ The total of 133 correctional officers is reduced by (a) 7 on active military duty (b) 2 on workers’ compensation (c) 11 who cover for the average number of officers on sick leave (d) 10 who cover for the average officers on annual leave and (e) an average of 5 whose attendance is otherwise unreliable. That leaves 97 Correctional Officers to fill a like number of posts over three shifts.