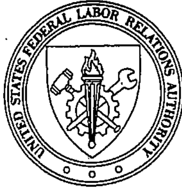


**FEDERAL LABOR RELATIONS AUTHORITY**
Office of Administrative Law Judges
WASHINGTON, D.C.

OALJ 15-56

| DEPARTMENT OF JUSTICE<br>FEDERAL BUREAU OF PRISONS<br>FEDERAL CORRECTIONAL COMPLEX<br>COLEMAN, FLORIDA<br>RESPONDENT<br><br>AND<br><br>AMERICAN FEDERATION OF GOVERNMENT<br>EMPLOYEES, AFL-CIO, LOCAL 506<br><br>CHARGING PARTY | Case No. AT-CA-12-0530 |
|---|---|

Brian R. Locke
For the General Counsel

Alicia Daniels-Lewis
For the Respondent

Jose Rojas
For the Charging Party

Before: RICHARD A. PEARSON
Administrative Law Judge

## DECISION

## STATEMENT OF THE CASE

This is an unfair labor practice proceeding under the Federal Service Labor-Management Relations Statute, 5 U.S.C. §§ 7101-7135 (the Statute), and the Rules and Regulations of the Federal Labor Relations Authority (the Authority or FLRA), 5 C.F.R. part 2423.

On July 13, 2012, the American Federation of Government Employees, AFL-CIO, Local 506 (the Charging Party or Union) filed an unfair labor practice charge that was amended on November 8, 2012, against the Department of Justice, Federal Bureau of Prisons, Federal Correctional Complex, Coleman, Florida (the Respondent, Agency, or FCC Coleman).

GC Exs. 1(a) & 1(b). After investigating the charge, the Regional Director of the FLRA's Atlanta Region, on behalf of its General Counsel (GC), issued a Complaint on March 7, 2013, alleging that the Respondent violated § 7116(a)(1) and (5) of the Statute by assigning new duties and responsibilities to employees without completing bargaining with the Union to the extent required by the Statute. GC Ex. 1(c). In its Answer to the Complaint, the Respondent admitted some of the factual allegations but denied that it committed an unfair labor practice. GC Ex. 1(d).

A hearing upon the matter was conducted on June 18, 2013, in Winter Garden, Florida. At the hearing, all parties were represented and afforded an opportunity to be heard, to introduce evidence, and to examine witnesses. The GC filed a post-hearing brief, which I have fully considered. Neither the Respondent nor the Charging Party filed post-hearing briefs.

Based on the entire record,[1] including my observation of the witnesses and their demeanor, I find that the Respondent changed conditions of employment for bargaining unit employees by assigning new duties without notifying or bargaining with the Union. Therefore, the Respondent violated § 7116(a)(1) and (5) of the Statute. In support of these determinations, I make the following findings of fact, conclusions of law, and recommendations.

## FINDINGS OF FACT

The Respondent is an agency within the meaning of § 7103(a)(3) of the Statute. GC Exs. 1(c) & 1(d). The Council of Prison Locals, American Federation of Government Employees (AFGE), is a labor organization within the meaning of § 7103(a)(4) of the Statute and is the exclusive representative of a nationwide bargaining unit of employees of the U.S. Department of Justice, Federal Bureau of Prisons (BOP). The Union is an agent of AFGE for the purpose of representing bargaining unit employees at FCC Coleman. *Id.*

The Respondent maintains four facilities at the Coleman complex: these facilities are designated as Low, Medium, USP 1, and USP 2. Tr. 19. Each of these facilities contains a Special Housing Unit (SHU) for those inmates who have violated the facilities' policies and procedures. Because of their propensity for disruptive behavior, SHU inmates are confined to their cells 23 hours per day with only one hour, five days per week, permitted for recreational exercise outside the confines of their cells. The inmates in the SHU at USP 1 are arranged in

[1] At the hearing, counsel jointly asked that I take official notice, and incorporate into the record, the transcript of an earlier hearing involving the same parties, *U.S. Dep't of Justice, Fed. Bureau of Prisons, Fed. Corr. Complex, Coleman, Fla.*, Case No. AT-CA-11-0438 (January 31, 2014) (Authority decision published at 67 FLRA 632 (2014); Judge's decision on this issue, 67 FLRA at 640-41). Tr. 10-13. The earlier hearing contained extensive testimony regarding the remedy sought by the General Counsel that a Notice to Employees be disseminated by email, and counsel in the current case felt that it would be more efficient to incorporate that testimony into the record of this case, rather than to have the witnesses testify again; I agree. Subsequently, the Authority ruled in *U.S. Dep't of Justice, Fed. Bureau of Prisons, Fed. Transfer Ctr., Okla. City, Okla.*, 67 FLRA 221 (2014) (*Transfer Center*), that electronic dissemination of such notices should be routinely ordered when an unfair labor practice has been committed. Therefore, consideration of the testimony in AT-CA-11-0438 is unnecessary in our case; while I have taken official notice of the testimony, I have not incorporated it into the record.

four ranges of cells housing approximately 190 inmates, mostly two inmates to a cell. Tr. 155. USP 2 has six ranges of cells housing approximately 230 inmates, the majority of whom also share a cell. Tr. 60, 124, 155. During 2012, there were generally between three and ten inmates in each of the four SHU facilities who were insulin dependent and required daily glucose testing and insulin injections. Tr. 28, 55, 137, 151, 162-63.

Prior to early June of 2012, a physician assistant (PA) or nurse would report to the SHUs that housed an insulin dependent inmate. One correctional officer would escort the PA or nurse to the cell of an insulin dependent inmate and open the food slot (a small trap door) on the door of the cell. The inmate was directed to place his arm in the food slot to receive an insulin injection, which was given in his upper arm. Tr. 21, 95, 132-33. This process took approximately five minutes per inmate.[2] After the inmate was given the injection, the PA and the correctional officer proceeded to the next inmate scheduled to receive an insulin injection. There are generally six correctional officers on duty at each SHU during the day shift, with insulin being administered soon after the day shift officers report at 6:00 a.m. Tr. 39-40, 126, 157. The injection process is normally completed by 6:45 a.m., at which time the correctional officers begin the process of bringing the inmates their breakfast to their cells, a process that is normally completed by 7:30 or 7:45 a.m. Tr. 157. Some inmates are also moved to the recreation area during this period. Tr. 40. In addition to receiving insulin injections in the morning, some inmates are given insulin a second or even a third time during the day. Tr. 24.

In early June of 2012, the procedures for administering insulin injections in the SHUs changed. Instead of one correctional officer accompanying the PA, two correctional officers now proceed to each cell housing an insulin dependent inmate. Tr. 30, 97-98. The correctional officers instruct the inmate to get dressed so that he can be taken out of his cell to receive his insulin injection in the SHU medical office. Before an inmate can be removed from his cell, he must be restrained, and the cellmate who is not receiving an injection must also be restrained.[3] Once the cell door is closed, and the inmate remaining in the cell has his restraints removed, a pat-down search of the other inmate is performed, and a metal detector is used to ensure that the inmate has no metal or contraband in his possession before he is escorted to the medical office. Tr. 31-32, 96-97. Once the inmate arrives at the medical area, he is placed in a small secure cell and his restraints are removed by a correctional officer. At the same time, a belly chain is placed around the inmate, so he can't move his arms up and down. Tr. 36-37, 97. Once these precautions have been completed, the inmate is given the insulin injection by the PA or nurse. After the shot is administered, the process is reversed and the inmate is returned to his cell in the company of two officers. The restraints are then removed and the inmate is placed back in his cell. Tr. 36-39. This process takes approximately ten to fifteen minutes per inmate.[4]

---

[2] I base this estimate on a comparison of the witnesses' testimony – both their time estimates and their descriptions of the process. Tr. 28, 95, 141-42, 169. The time estimates did not vary significantly between the Union and the management witnesses on this point, and this makes sense, because the old procedure was much simpler and did not allow for much variation between inmates.

[3] Each inmate puts his hands through the food slot and the correctional officer secures the restraints around the inmate's wrists; the officer then directs the inmate to walk to the back of the cell and face the back wall; the second officer instructs a third officer, who is stationed at the top of the range, to open the cell door. Once the insulin dependent inmate is out of the cell, one of the officers directs the third officer to close the cell door, and one officer will escort the inmate to the SHU's medical office. Tr. 31-33.

[4] Again, I base this estimate on a comparison and evaluation of the witnesses' testimony. Here, there was

In addition to the new procedure of removing the inmates from their cells for the administration of the insulin injections, the correctional officers are required to inventory the insulin needles used by the PA. Tr. 43-44. The officer must sign an inventory form certifying that the PA brought in the same number of syringes that are being removed from the SHU. R. Ex. 2 at 3-4. Thus, the correctional officer must physically inspect all needles that are used by the PA in giving the injections to the inmates. Prior to June 2012, the responsibility for the care and inventory of the syringes was solely under the province of the medical staff, without involvement of the correctional officers. Tr. 43-45.

Union Executive Vice President Jim Seidel testified that a correctional officer informed him of the change in insulin administration procedures at the SHUs, and he immediately sent an email to FCC Warden Darryl Drew, dated June 5, 2012, invoking the Union's right to negotiate all changes being made. Jt. Ex. 1. In pertinent part, the Union requested that the Agency maintain the status quo until all phases of bargaining had been completed. The Union proposed that the negotiations cover the appropriate number of staff for the escort of inmates to the SHU medical area and the procedures for certification and disposal of needles and syringes, but it indicated that it would submit further proposals later, pursuant to the parties' ground rules. *Id.*

On June 18, 2012, Human Resource Specialist Drusilla Wiggins replied to Seidel with an attachment from Health Services Administrator Jose Acebal. Jt. Ex. 2. Acebal stated in pertinent part that there had been no change in the administration of insulin injections that would trigger a duty to bargain. He told Seidel that if there were any issues Seidel wanted him to consider, he should provide them to Acebal by June 29. *Id.*

By email dated June 21, 2012, Seidel reaffirmed the Union's insistence on negotiating the changes in the administration of insulin injections, and he expressed further concerns about specific aspects of the procedures for restraining inmates and escorting them to the medical office, as well as the officers' new responsibilities regarding the needle inventory form, all of which affected working conditions. He reiterated his demand that the policy not be implemented until after negotiations had been completed. Jt. Ex. 3. The Agency never responded to this letter. Tr. 46.

## POSITIONS OF THE PARTIES

### General Counsel

The General Counsel contends that the Agency had an obligation to bargain with the Union, because it made a unilateral change that had a greater than de minimis impact on bargaining unit employees' working conditions, and the Union did not waive its right to bargain.

---

a greater discrepancy between the time estimates of the Union witnesses (Tr. 38, 101) and the management witnesses (Tr. 128, 132, 151, 163). I believe that the Union witnesses were more accurate on this point: first because they are more personally familiar with the procedure and the problems involved at each step of the procedure, and secondly because their time estimates correspond more closely with the details of the procedure. It simply defies logic, and the specifics of what must be done to escort each insulin dependent inmate from his cell to the medical area, for the new procedure to take barely a minute or two longer per inmate, as the management witnesses suggested.

The GC asserts that the Agency changed conditions of employment by assigning new, time-consuming, and potentially dangerous duties to bargaining unit employees in early June 2012, without advance notice to the Union. The General Counsel rejects the Respondent's contention that there was no change, because the new procedures mandated that correctional officers escort inmates to the medical office for their insulin injections and that the officers account for the number of syringes entering and leaving the SHU, a responsibility that did not exist previously.

The GC argues that the change in the insulin injection procedures had a greater than de minimis impact on employees' working conditions. It points out that the Agency's decision to require the correctional officers to escort insulin dependent inmates to the medical office was a significant change because: (1) it required an increase in manpower when escorting the inmates to the medical area; (2) the correctional officers were exposed to a heightened degree of danger when removing the inmates from their cells; (3) officers were exposed to potentially dangerous conditions when counting and handling used syringes without proper training; and (4) it took the correctional officers twice as long to complete the new insulin injection procedures and the additional duties of accounting for the used syringes.

The General Counsel contends that a status quo ante remedy is warranted in this case, because it is integral to the effectiveness of the Statute. The GC argues that the factors cited by the Authority in *Fed. Corr. Inst.*, 8 FLRA 604, 606 (1982) (*FCI*), weigh strongly in favor of a status quo ante remedy.

Finally, the General Counsel requests that a notice to employees, signed by the warden of the Coleman complex, be posted on bulletin boards and also be distributed by email to all bargaining unit employees.

<u>Respondent</u>

Although the Respondent did not file a post-hearing brief, it argued in its prehearing disclosure that it did not violate § 7116(a)(1) and (5) of the Statute, because no change in conditions of employment took place that imposed a bargaining obligation. In this regard, it argued that correctional officers regularly remove inmates from their cells and escort them to medical appointments, recreational activities, and disciplinary hearings; the same procedures for removing inmates from their cells are employed for escorting them to the medical area for insulin injections. Tr. 13. Alternatively, Respondent argues that even if there was a change in employee working conditions, the change was de minimis, and there is no obligation for an agency to bargain over impact and implementation of a management right that has only a de minimis effect on conditions of employment.

The Respondent further asserts that a status quo ante remedy in this case is impossible, due to changes made in the doors of the cells, and that the old procedure violated various statutory and regulatory guidelines for administering insulin to inmates. R. Prehearing Disclosure at 2-3. It points to testimony that it is impossible to return to the prior procedure of giving inmates an insulin injection through the food slots, because all of the cells now have lock boxes over the food slots. Tr. 148-49. It further insists that the old insulin procedure violated

medical and institutional guidelines for administering insulin, which requires, among other things, that the injection site be varied and that it should be injected in the inmate's abdomen, not his arm. Tr. 177-78, 180-81.

## ANALYSIS AND CONCLUSION

Before implementing a change in conditions of employment of bargaining unit employees, an agency is required to provide the exclusive representative with notice of the change and an opportunity to bargain over those aspects of the change that are within the duty to bargain. *Fed. Bureau of Prisons, Fed. Corr. Inst., Bastrop, Tex.*, 55 FLRA 848, 852 (1999). The determination of whether a change in conditions of employment occurred involves an inquiry into the facts and circumstances regarding the agency's conduct and employees' conditions of employment. *Soc. Sec. Admin., Office of Hearings & Appeals, Charleston, S.C.*, 59 FLRA 646, 649 (2004), *pet. for review denied sub nom. Assoc. of Admin Law Judges v. FLRA*, 397 F.3d 957 (D.C. Cir. 2005).

The Respondent in this case changed conditions of employment for correctional officers in the SHUs. The Authority has long held that an agency has the obligation to bargain over the impact and implementation of changes in job duties. *Soc. Sec. Admin., Malden Dist. Office, Malden, Mass.*, 54 FLRA 531 (1998) (*SSA Malden*); *U.S. Dep't of Defense, Dep't of the Army, Headquarters, Fort Sam Houston, Tex.*, 8 FLRA 623, 625, 638 (1982). The Agency changed the duties of correctional officers when it required them to escort inmates to the medical area and further required them to account for the number of syringes entering and leaving the SHU and enter the information on a form. The Respondent is correct that it did not change the procedures for taking inmates out of their cell and escorting them to other locations; but it did change the procedures for administering insulin to inmates, and that change required inmates to be taken out of their cells, placed in a series of restraints, and moved to the SHU medical area – a process that is indisputably more complex and time-consuming than the previous procedure. Although officers regularly escort inmates to the medical area and elsewhere for other purposes, they previously did not need to do so for the purpose of glucose testing or insulin injection. Previously, the PA or nurse injected inmates through their cell food slots; now the inmates must be escorted to the medical area to receive their insulin injections, a process that must be utilized for several inmates in each SHU every morning, and at additional times for some inmates.

The Authority has previously stated that an agency changes working conditions when it makes a change that increases the workload of an employee even when it does not add new duties. *See Soc. Sec. Admin., Gilroy Branch Office, Gilroy, Cal.*, 53 FLRA 1358 (1998) (requiring employees to take appointments on Fridays was a change, even though employees took appointments on other days). Here, the workload of the correctional officers increased when comparing the old and new insulin injection procedures. Indeed, the record confirms that one additional officer at each of the four SHUs is required to escort inmates to the medical area, and it takes more than twice the time for the two officers to complete the insulin injection process under the new procedure than it took for one officer to complete the process when inmates were given their injections in their cells. It should be noted that no corresponding reduction was made in other duties assigned to the correctional officers after the implementation of the changes in the insulin injection procedures. *See SSA Malden*, 54 FLRA at 536-37 (new

policy that increased workload by an average of ten minutes per day was more than de minimis). Furthermore, under the new procedure, the correctional officers are required to count the number of syringes entering and leaving the SHU and sign a new form to this effect; in doing so, they are exposed to sharp, contaminated needles. Previously, the PAs were accountable for the number of syringes entering and leaving the SHU, and the correctional officers had no responsibilities in that regard.

When an agency (as here) exercises a reserved management right and the substance of the decision is not itself subject to negotiation, the agency nonetheless has an obligation to give notice and bargain over procedures to implement that decision and appropriate arrangements for unit employees adversely affected by that decision, if the resulting change has more than a de minimis effect on conditions of employment. *Pension Benefit Guar. Corp.*, 59 FLRA 48, 50 (2003). In applying the de minimis doctrine, the Authority looks to the nature and extent of either the effect, or the reasonably foreseeable effect, of the change on bargaining unit employees' conditions of employment. *U.S. Dep't of the Treasury, IRS*, 56 FLRA 906, 913 (2000).

Here, the impact of the change on employees' working conditions was considerably more than de minimis. The change in duties applied to all correctional officers assigned to escort insulin dependent inmates in the several SHUs and was intended to be permanent. The Respondent should have foreseen that its employees would have concerns about the new insulin administration procedures, which were substantially different from the employees' prior experience. The problems stem not from the fact that the officers are unfamiliar with escorting inmates from their cells to other areas of the prison, but from the fact that the new policy converts a fairly simple, quick process into a much longer, multi-step process, restraining and unrestraining dangerous inmates at a busy time of the day. The timing of the insulin injections is significant, because between 6:30 and 8:00 a.m., correctional officers are also engaged in feeding the SHU inmates, moving some of them to the recreation area, and assisting with sick call. The potential for inmates to cause disruptions or more serious security problems is increased when employees are required to engage in multiple steps at an already-busy time. The officers' safety concerns were further heightened by the fact that they had not received training in handling potentially contaminated needles, yet they were now responsible for those needles. Thus, even though the Agency may have had the right, under § 7106(a), to make changes in the insulin injection procedures, it was reasonably foreseeable that the officers would have significant interests in negotiating procedures and appropriate arrangements related to those changes, under § 7106(b).

Because the Respondent effected a change in conditions of employment that was greater than de minimis, it was obligated to give the Union advance notice and an opportunity to bargain regarding the impact and implementation of the change. *92 Bomb Wing, Fairchild AFB, Spokane, Wash.*, 50 FLRA 701, 704 (1995). Once a union is given notice of a change, it must timely request bargaining. *U.S. Dep't of Homeland Sec., U.S. Customs & Border Prot.*, 62 FLRA 263, 265 (2007). Here, the Union was never notified before the new insulin injection procedures were implemented. The Union did not learn of the new procedures until after they had been implemented; it immediately demanded to bargain about the changes, requested that the Agency maintain the status quo until bargaining was completed, and submitted initial proposals

to management. Jt. Exs. 1, 3. Thus, both the Agency's failure to provide advance notice of the changes to the Union and its rejection of the Union's demand to bargain violated § 7116(a)(1) and (5) of the Statute.

## REMEDY

Where an agency has exercised a management right and changed a condition of employment without fulfilling its obligation to bargain over the impact and implementation of that decision, the Authority applies the criteria set forth in *FCI* to determine whether a status quo ante remedy is appropriate. 8 FLRA at 606. The purpose of a status quo ante remedy is to place the parties, including employees, in the positions they would have been in had there been no unlawful conduct. *Dep't of VA Med. Ctr., Asheville, N.C.*, 51 FLRA 1572, 1580 (1996). In our case, the GC urges that the Agency be required to return to the previous procedure for administering insulin injections until the statutory bargaining process has been completed.

As the Authority explained in *FCI*, determining the appropriateness of status quo ante relief requires, "on a case-by-case basis, carefully balancing the nature and circumstances of the particular violation against the degree of disruption in government operations that would be caused by such a remedy." 8 FLRA at 606. In determining whether a status quo ante remedy would be appropriate in a case involving the failure to bargain over impact and implementation, the Authority considers, among other things: (1) whether, and when, notice was given by the agency concerning the action or change decided upon; (2) whether, and when, the union requested bargaining on the procedures to be observed by the agency in implementing such action or change and/or concerning appropriate arrangements for employees adversely affected by such action or change; (3) the willfulness of the agency's conduct in failing to properly bargain under the Statute; (4) the nature and extent of the impact experienced by adversely affected employees; and (5) whether, and to what degree, a status quo ante remedy would disrupt or impair the efficiency and effectiveness of the agency's operations. *Id.* As the court explained in *FDIC v. FLRA*, 977 F.2d 1493, 1498 (D.C. Cir. 1992), ordering that unilaterally implemented changes be rescinded "ensure[s] that agencies will have the incentive to bargain with their unions."

The first factor supports awarding a status quo ante remedy: it is undisputed that the Agency did not give notice to the Union of its decision to change the insulin injection procedures. The second and third factors also favor returning to the status quo: here, the Union requested bargaining and submitted proposals two days after learning of the proposed changes. The evidence further demonstrates that the Agency's failure to discharge its bargaining obligations were willful. It implemented the changes to correctional officers' duties without even notifying the Union of what it was doing, and when the Union learned of the changes independently, Agency officials rejected the Union's demand to bargain. These officials gave no explanation as to why they did not even attempt to meet with the Union before implementing the changes. Likewise, the fourth *FCI* factor supports awarding a status quo ante remedy, since the impact on bargaining unit employees is significant. As already noted, the new procedures are considerably more complicated, and potentially more dangerous to the officers, than the old procedure. The new procedures put the officers in close physical contact with several of the most dangerous inmates on a daily basis and require officers to handle the syringes and needles.

One of the purposes of negotiations under § 7106(b) is to mitigate possible adverse effects of a change, and enabling the Union to negotiate with the Agency regarding these procedures and arrangements would give the parties the opportunity to discuss ways of implementing the changes that might minimize the dangers to correctional officers.

The reasons cited by the Agency against a status quo ante remedy relate to the fifth *FCI* factor, that it would disrupt the prison's operations. First, counsel argued that returning to the old insulin injection procedures would violate HIPAA, OSHA, and guidelines of the American Correctional Association. Tr. 14. However, neither counsel nor the Agency's witnesses cited any specific provision in these laws or documents that supported such an assertion. Indeed, no evidence was submitted that the Respondent needed to make these changes based on any rule from a certifying body or on any statute or government-wide regulation. The Respondent also relied upon the June 2012 Clinical Practice Guidelines for the Management of Diabetes in the Federal Bureau of Prisons as the basis for its decision to change the injection procedure in 2012 and for the denial of a status quo ante remedy. R. Ex. 1. Sara Salamo-Buggs, the assistant health service administrator at FCC Coleman, cited the infection control portion of this document as the basis for checking inmate glucose levels and injecting insulin in the medical area rather than in their cells. Tr. 172-73, 177, 180-81. According to her, administering the injections in an inmate's cell does not properly allow for the injection site to be rotated between the arm, abdomen, and other areas. Tr. 180-81. As a result, she and other health officials at the FCC revised the institution's Medical Procedure Manual to require insulin dependent inmates to be brought to the health area of the SHU for their glucose monitoring and insulin injections. R. Ex. 2 at 3.

It should be noted first that the purpose of the Clinical Practice Guidelines is to provide recommendations, rather than mandatory provisions, for the medical management of inmates with diabetes. Moreover, a review of the Clinical Practice Guidelines does not reveal any specific provision that would require removing inmates from their cells and escorting them to the medical office for their insulin injections. Accordingly, I reject any suggestion that returning to the old procedure would jeopardize the prison's accreditation or legal standing in any way. I do accept, however, the broader point made by Ms. Salamo-Buggs that administering the injections and glucose tests in the medical office may be a safer procedure from the standpoint of infection control, and a better medical practice for the health of the inmates. Such arguments may justify the Agency's decision to change the procedure, but that is not the same as saying that a return to the old procedure, for a limited time to enable negotiations to proceed, would disrupt the Agency's operations. While the Agency had the right to change the injection procedure, it should not have done so until it had given the Union the opportunity to negotiate over the impact and implementation of that change. During such negotiations, the Union's safety concerns relating to the repeated moving of inmates and the officers' handling of needles could have been weighed along with the concerns of the medical staff about the health of the inmates. The evidence before me, however, is unpersuasive that rescinding the new procedure during negotiations would be so unsafe for inmates or employees as to disrupt the prison's operations.

Lastly, the Respondent asserts that returning to the status quo ante would be impossible due to the existence of lock boxes that have been installed over the food slots. Contrary to this assertion, the record establishes that the lock boxes were installed over the food slots to prevent

inmates from throwing food or other matter outside the cell, and that the lock boxes can be opened or removed to give the inmates food, medicine, or documents. Both General Counsel and Respondent witnesses testified that prior to the implementation of the new insulin injection procedures, PAs gave injections through the lock boxes for years, and both Respondent and General Counsel witnesses testified that the lock boxes can still be opened relatively easily. Tr. 28, 90, 165, 214-15.

In summary, a status quo ante remedy is warranted because the Respondent unilaterally implemented the changes in the insulin injection procedures and in doing so acted willfully by refusing to negotiate with the Union. Further, the evidence established that these changes have a significant adverse impact on correctional officers' working conditions. Lastly, the evidence suggests that a return to the status quo ante will not cause any significant disruption to the Agency's operations. Therefore, I recommend that the Respondent be ordered to rescind its order directing correctional officers to escort inmates to the medical office for insulin injections and to discontinue requiring correctional officers to sign a form accounting for the number of syringes entering and leaving the SHU.

The General Counsel requests, and I agree, that a notice signed by the warden of FCC Coleman should be distributed to all bargaining unit employees by email and posted on bulletin boards, in accordance with the Authority's recent *Transfer Center* decision, 67 FLRA at 221.

Accordingly, I recommend that the Authority adopt the following Order:

**ORDER**

Pursuant to § 2423.41(c) of the Rules and Regulations of the Authority and § 7118 of the Federal Service Labor-Management Relations Statute (the Statute), the Department of Justice, Federal Bureau of Prisons, Federal Correctional Complex, Coleman, Florida, shall:

1. Cease and desist from:

(a) Refusing to notify and bargain with the American Federation of Government Employees, AFL-CIO, Local 506 (the Union) before requiring correctional officers to: (1) escort inmates to the medical area for insulin injections or (2) sign a form confirming the number of syringes entering and leaving the Special Housing Units.

(b) In any like or related manner, interfering with, restraining, or coercing bargaining unit employees in the exercise of their rights assured by the Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute:

(a) Rescind its decision requiring correctional officers to: (1) escort inmates to the medical area for insulin injections and (2) sign a form confirming the number of syringes that enter and leave the Special Housing Units.

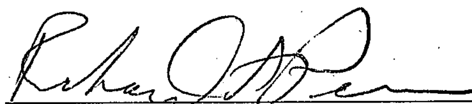
(b) If the Respondent decides to reimplement the above requirements, notify the Union and fulfill its bargaining obligations under the Statute.

(c) Post at its facilities where bargaining unit employees represented by the Union are located, copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the Complex Warden and posted and maintained for sixty (60) consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that such Notices are not altered, defaced, or covered by any other material.

(d) The Notice shall also be disseminated, by email or other electronic media customarily used to communicate to employees, to all bargaining unit employees of the Respondent.

(e) Pursuant to § 2423.41(e) of the Rules and Regulations of the Authority, notify the Regional Director, Atlanta Region, Federal Labor Relations Authority, in writing, within thirty (30) days from the date of this Order, as to what steps have been taken to comply.

Issued, Washington, D.C., September 28, 2015



RICHARD A. PEARSON
Administrative Law Judge

**NOTICE TO ALL EMPLOYEES**

**POSTED BY ORDER OF THE**

**FEDERAL LABOR RELATIONS AUTHORITY**

The Federal Labor Relations Authority has found that the Department of Justice, Federal Bureau of Prisons, Federal Correctional Complex, Coleman, Florida, violated the Federal Service Labor-Management Relations Statute (the Statute), and has ordered us to post and abide by this Notice.

**WE HEREBY NOTIFY OUR EMPLOYEES THAT:**

**WE WILL NOT** refuse to notify and bargain with the American Federation of Government Employees, AFL-CIO, Local 506 (the Union) before requiring correctional officers to: (1) escort inmates to the medical area for insulin injections or (2) sign a form confirming the number of syringes entering and leaving the Special Housing Units.

**WE WILL NOT** in any like or related manner, interfere with, restrain, or coerce bargaining unit employees in the exercise of their rights assured by the Statute.

**WE WILL** rescind our decision requiring correctional officers to: (1) escort inmates to the medical area for insulin injections and (2) sign a form confirming the number of syringes entering and leaving the Special Housing Units.

**WE WILL** notify the Union and fulfill our bargaining obligations under the Statute, if we decide to reimplement the above requirements.

____________________________________
(Agency/Respondent)

Date: ______________ By:____________________________________
(Signature) (Title)

This Notice must remain posted for sixty (60) consecutive days from the date of posting and must not be altered, defaced, or covered by any other material.

If employees have any questions concerning this Notice or compliance with its provisions, they may communicate directly with the Regional Director, Atlanta Regional Office, Federal Labor Relations Authority, whose address is: 225 Peachtree Street, Suite 1950, Atlanta, GA 30303, and whose telephone number is: 404-331-5300.