

# FAX TRANSMISSION

FEDERAL LABOR RELATIONS AUTHORITY, DALLAS

525 Griffin Street, Ste 926, LB 107

Dallas, Texas 75202

214-767-6266 ex. 8013


Fax: 214-767-0156

[nhinojosa@flra.gov](mailto:nhinojosa@flra.gov)

**Date:** July 23, 2012

**To:** Office of Administrative Law Judge 202-482-6629  
Chief Administrative Law Judge  
Federal Labor Relations Authority

Jennifer Spangler, Esq. 913-551-8330  
Assistant General Counsel  
Federal Bureau of Prisons

**From:** Nora E. Hinojosa   
Counsel for the General Counsel

**Subject:** DA-CA-12-0216  
Motion for Summary Judgment

**No. of Pages (Including Cover):** 21

**BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY  
DALLAS REGION**

Federal Bureau of Prisons  
Federal Correctional Institution  
Seagoville, Texas

Respondent

and

Case No. DA-CA-12-0216

American Federation of Government Employees  
Local 1637, AFL-CIO

Charging Party

**COUNSEL FOR THE GENERAL COUNSEL'S  
MOTION AND ARGUMENT IN SUPPORT OF  
SUMMARY JUDGMENT**

Pursuant to section 2423.27 of the Rules and Regulations of the Federal Labor Relations Authority, 5 C.F.R. § 2423.27, Counsel for the General Counsel moves for summary judgment in this matter. In support of this Motion, Counsel for the General Counsel states as follows:

1. On June 20, 2012, the Regional Director for the Dallas Region of the Federal Labor Relations Authority issued a Complaint and Notice of Hearing in this matter alleging that the Federal Bureau of Prisons, Federal Correctional Institution, Seagoville, Texas (Respondent), violated Section 7116(a)(1), (5) and (8) of the Federal Service Labor-Management Relations Statute (Statute) when it failed to respond to an information request submitted by the American Federation of Government Employees, Local 1637 (Union) and failed to provide information in response to the request or to establish a legitimate basis for not providing the requested information. (*GC Ex. A*) A hearing in this case is set for August 28, 2012, in Dallas, Texas.
2. The Complaint and Notice of Hearing, dated June 20, 2012, was served by mail on Respondent at the address provided by Respondent's representative in the case. The complaint stated that Respondent's Answer to the complaint must be filed (or postmarked) by July 16, 2012. The complaint further advised that "[a] failure to file an answer or respond to any allegation of this complaint shall constitute an admission. See 5 C.F.R. § 2423.20(b).
3. An Answer was submitted/postmarked by Respondent on July 16, 2012, and received by the General Counsel on July 19, 2012, in which Respondent admitted all of the allegations of the complaint. (*GC Ex. B*). In this respect, Respondent admits that:

- a. The Federal Bureau of Prisons, Federal Correctional Institution, Seagoville, Texas (Respondent), is an agency under 5 U.S.C. §7103(a)(3).
- b. The American Federation of Government Employees (AFGE) is a labor organization under 5 U.S.C. §7103(a)(4) and is the exclusive representative of a unit of employees appropriate for collective bargaining at Respondent.
- c. The American Federation of Government Employees, Local 1637 (Local 1637 or Charging Party), is an agent of AFGE for the purpose of representing employees of Respondent within the unit described in paragraph 3.
- d. The charge in Case No. DA-CA-12-0216 was filed by Local 1637 with the Dallas Regional Director on February 24, 2012.
- e. A copy of the original charge described in paragraph [d] was served on Respondent.
- f. At all times material to this complaint, Trina Wiginton occupied the position of Human Resource Manager.
- g. At all times material to this complaint, the person named in paragraph [f] was a supervisor and/or management official or an agent of a supervisor and/or management official under 5 U.S.C. §§ 7103(a)(10) and (11) at Respondent.
- h. At all times material to this complaint, the person named in paragraph [f] was acting on behalf of Respondent.
- i. On January 27, 2012, Local 1637, by John Sullins (then Union Steward, now Union 1<sup>st</sup> Vice President) requested the Respondent to furnish:

The total number of days of sick leave used at FCI Seagoville over the past 12 months, concurrent (either before or after) with the employee's days off and federally observed holidays. Broken down by department, race, and gender for all bargaining unit employees.

The total number of employees working at FCI Seagoville who received "letters of counseling" regarding sick leave usage over the last 12 months, broken down by department, race, and gender for all bargaining unit employees.

- j. The information described in paragraph [i] is normally maintained by Respondent in the normal course of business.
  - k. The information described in paragraph [i] is reasonably available.
  - l. The information described in paragraph [i] is necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of bargaining.
  - m. The information described in paragraph [i] does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining.
  - n. The information described in paragraph [i] is not prohibited from disclosure by law.
  - o. Respondent, by Wiginton, failed to provide the information described in paragraphs [i] through [n].
  - p. Respondent, by Wiginton, failed to respond to the information request described in paragraphs [i] through [n].
  - q. By the conduct described in paragraphs [o] and [p], Respondent refused to comply with 5 U.S.C. § 7114(b)(4).
  - r. By the conduct described in paragraphs [o], [p], and [q], Respondent committed an unfair labor practice in violation of 5 U.S.C. § 7116(a)(1) and (5).
  - s. By the conduct described in paragraphs [o], [p], and [q], Respondent committed an unfair labor practice in violation of 5 U.S.C. § 7116(a)(1) and (8).
4. Since there are no factual or legal issues in dispute, the August 28, 2012, hearing is unnecessary and this case is ripe for summary judgment in the General Counsel's favor. The Respondent has admitted violating Section 7116(a)(1), (5) and (8) of the Statute by failing to respond to the information request and failing to provide the requested information, or to communicate and establish a legitimate basis for not providing the information in compliance of Section 7114(b)(4) of the Statute. *Dep't Of Transp., Fed. Aviation Admin., Fort Worth, Tex.*, 57 FLRA 604 (2001); *Dep't of Justice, U.S. Immigration & Naturalization Serv., U.S. Border Patrol*, 23 FLRA 239 (1986).

Section 7114(b)(4) requires an agency to respond to a request from an exclusive representative for information even if the response is that the information sought does not exist. The duty to respond also requires an agency to tell the union it does not maintain the information the union requests. *Social Security Admin., Baltimore, Maryland and Social Security Admin., Area II, Boston Region, Boston, Massachusetts*, 39 FLRA 650, (1991).

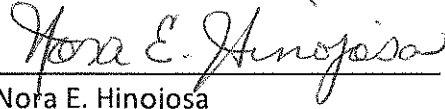
Under §7114(b)(4) of the Statute, an agency must, upon request, furnish to a union data that is: (1) normally maintained by the agency; (2) reasonably available; (3) necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and (4) not guidance, advice, counsel or training provided for management officials or supervisors, relating to collective bargaining. See *Dep't of Transp., Fed. Aviation Admin., Fort Worth, Tex.*, 57 FLRA 604 (2001); *Health Care Fin. Admin.*, 56 FLRA 503, 506 (2000). To demonstrate that information is "necessary" a union must establish a particularized need for the information by articulating, with specificity, why it needs the requested information, including the uses to which the union will put the information and the connection between those uses and the union's representational responsibilities under the Statute. A union must establish the requested information is required in order for the union to adequately represent its members. An agency denying a request must assert and establish any countervailing anti-disclosure interests. An unfair labor practice will be found if a union has established a particularized need for the requested information and either the agency has not established a countervailing interest or the agency has established such an interest but it does not outweigh the union's demonstration of particularized need. *U.S. Dep't of Justice, Fed. Bureau of Prisons, Fed. Corr. Inst., Forrest City, Ark.*, 57 FLRA 808 (2002); *Internal Revenue Serv., Washington, D.C. and Internal Revenue Serv., Kan. City Serv., Ctr., Kan. City, Mo.*, 50 FLRA 661 (1995).

In this case, on January 27, 2012, (GC Ex. C) the Union submitted an information request to Respondent. In its information request, the Union went into detail about what information it needed, and why it needed the information, including, connecting those uses to the Union's representative responsibilities under the Statute. The Union, therefore, established a particularized need for the information. Respondent failed to respond to the information request and failed to provide the information thereby failing to comply with Section 7114(b)(4) of the Statute. Respondent's failure to comply with Section 7114(b)(4) violates Section 7116(a)(1), (5), and (8) of the Statute.

5. The only remaining issue to be resolved is the question of remedy. *VAMC Asheville*, 51 FLRA at 1594. An order requiring Respondent to recognize the obligations that it has under the Statute, to provide the requested information, to cease and desist from interfering with, restraining or coercing employees in the exercise of rights assured by the Statute, and requiring the Respondent to post an appropriate Notice to All Employees (attached), including the electronic distribution of the Notice to All Employees to all bargaining unit employees, is an appropriate remedy for the admitted unfair labor practice violation in this case. *U.S. Dep't of the Air Force, Aerospace Maint.*,

*Davis Monthan Air Force Base, Tucson, Ariz., 58 FLRA 636, 637 (2003); Dep't of Veterans Affairs, Veterans Affairs Medical Center, Nashville, Tenn., 50 FLRA 220, 223-225 (1995).*

Respectfully submitted this 23<sup>th</sup> day of July, 2012 at Dallas, Texas.

A handwritten signature in cursive script that reads "Nora E. Hinojosa". The signature is written in black ink and is positioned above a horizontal line.

Nora E. Hinojosa

Counsel for the General Counsel

Dallas Regional Office

Federal Labor Relations Authority

525 S. Griffin Street, Suite 926, LB 107

Dallas, TX 75202-5093

Tel: 214-767-6266 ext. 8013

Fax: 214-767-0156

**CERTIFICATE OF SERVICE**

Case No. DA-CA-12-0216

I hereby certify that on July 23, 2012, I served the foregoing **Counsel for the General Counsel's Motion and Argument for Summary Judgment** upon the interested parties in this action by facsimile:

Office of Administrative Law Judges  
Chief Administrative Law Judge  
Federal Labor Relations Authority  
1400 K Street NW, Second Floor  
Washington, D.C. 20424-0001  
Tel: 202-218-7950  
Fax: 202-482-6629

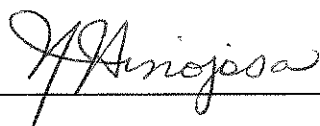
Jennifer Spangler, Esq.  
Assistant General Counsel  
Federal Bureau of Prisons  
Employment, law & Ethics Branch  
North Central Regional Office  
400 State Avenue, Tower II, Suite 800  
Kansas City, KS 66101  
Tel: 913-551-1165  
Fax: 913-551-8330

I served the following parties by email:

John Sullins  
Union 1<sup>st</sup> Vice President  
AFGE, Local 1637  
3017 Sandhurst Dr.  
Mesquite, TX 75181  
Tel: 214-534-5428  
Fax: n/a  
[jsullins@bop.gov](mailto:jsullins@bop.gov) or [marksullins@sbcglobal.net](mailto:marksullins@sbcglobal.net)

I served the following parties by mail:

Julia Akins Clark  
General Counsel  
Office of General Counsel  
Federal Labor Relations Authority  
1400 K Street NW, Second Floor  
Washington, D.C. 20424-0001

  
\_\_\_\_\_

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY  
DALLAS REGION**

Federal Bureau of Prisons  
Federal Correctional Institution  
Seagoville, Texas

- Respondent

and

Case No. DA-CA-12-0216

American Federation of Government Employees  
Local 1637  
AFL-CIO

- Charging Party

**COMPLAINT AND NOTICE OF HEARING**

1. This unfair labor practice complaint and notice of hearing is issued under 5 U.S.C. §§ 7101-7135 and 5 C.F.R. Chapter XIV.
2. The Federal Bureau of Prisons, Federal Correctional Institution, Seagoville, Texas (Respondent), is an agency under 5 U.S.C. §7103(a)(3).
3. The American Federation of Government Employees (AFGE) is a labor organization under 5 U.S.C. §7103(a)(4) and is the exclusive representative of a unit of employees appropriate for collective bargaining at Respondent.
4. The American Federation of Government Employees, Local 1637 (Local 1637 or Charging Party), is an agent of AFGE for the purpose of representing employees of Respondent within the unit described in paragraph 3.

GC Ex A



5. The charge in Case No. DA-CA-12-0216 was filed by Local 1637 with the Dallas Regional Director on February 24, 2012.
6. A copy of the original charge described in paragraph 5 was served on Respondent.
7. At all times material to this complaint, Trina Wiginton occupied the position of Human Resource Manager.
8. At all times material to this complaint, the person named in paragraph 7 was a supervisor and/or management official or an agent of a supervisor and/or management official under 5 U.S.C. §§ 7103(a)(10) and (11) at Respondent.
9. At all times material to this complaint, the person named in paragraph 7 was acting on behalf of Respondent.
10. On January 27, 2012, Local 1637, by John Sullins (then Union Steward, now Union 1<sup>st</sup> Vice President) requested the Respondent to furnish:

The total number of days of sick leave used at FCI Seagoville over the past 12 months, concurrent (either before or after) with the employee's days off and federally observed holidays. Broken down by department, race, and gender for all bargaining unit employees.

The total number of employees working at FCI Seagoville who received "letters of counseling" regarding sick leave usage over the last 12 months, broken down by department, race, and gender for all bargaining unit employees.

11. The information described in paragraph 10 is normally maintained by Respondent in the normal course of business.
12. The information described in paragraph 10 is reasonably available.

13. The information described in paragraph 10 is necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of bargaining.
14. The information described in paragraph 10 does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining.
15. The information described in paragraph 10 is not prohibited from disclosure by law.
16. Respondent, by Wiginton, failed to provide the information described in paragraphs 10 through 15.
17. Respondent, by Wiginton, failed to respond to the information request described in paragraphs 10 through 15.
18. By the conduct described in paragraphs 16 and 17, Respondent refused to comply with 5 U.S.C. § 7114(b)(4).
19. By the conduct described in paragraphs 16, 17, and 18, Respondent committed an unfair labor practice in violation of 5 U.S.C. § 7116(a)(1) and (5).
20. By the conduct described in paragraphs 16, 17, and 18, Respondent committed an unfair labor practice in violation of 5 U.S.C. § 7116(a)(1) and (8).

**A HEARING ON THIS COMPLAINT WILL BE HELD** before an Administrative Law Judge of the Federal Labor Relations Authority at 9:00 a.m. on **August 28, 2012**, at a place to be determined in Dallas, Texas. Respondent has the right to appear and present testimony and evidence at the hearing.

To answer this complaint, Respondent must comply with the filing and service requirements set forth in 5 C.F.R. Part 2429 and file an original and 4 copies of its answer with the:

Chief Administrative Law Judge  
Office of the Administrative Law Judges  
Federal Labor Relations Authority  
1400 K Street, N.W., Second Floor  
Washington, D.C. 20424-0001

The answer shall admit, deny, or explain each allegation of this complaint. If the Respondent has no knowledge of an allegation or insufficient information as to its truthfulness, the answer shall so state. Absent a showing of good cause to the contrary, a failure to file an answer or respond to any allegation in this complaint shall constitute an admission. See 5 C.F.R. § 2423.20(b).

The Respondent must serve any answer on the Chief Administrative Law Judge, the FLRA Dallas Regional Director, the Charging Party and all other parties at the addresses on the attached Certificate of Service. An answer filed in person must be received by the Office of the Administrative Law Judges **no later than July 16, 2012**. An answer filed by mail must be mailed and postmarked by **July 16, 2012**. The date of filing shall be determined by the postmark date. If no postmark date is evident on the mailing, it shall be presumed to have been mailed 5 days prior to receipt. See 5 C.F.R. § 2429.21(b).



James E. Petrucci  
Regional Director  
Dallas Region  
Federal Labor Relations Authority

DATE: June 20, 2012

**CERTIFICATE OF SERVICE**

Case No. DA-CA-12-0216

I hereby certify that on June 20, 2012, I served the foregoing **COMPLAINT AND NOTICE OF HEARING** and **REQUEST FOR SETTLEMENT JUDGE** upon the interested parties in this action by placing a true copy, postage prepaid, in the United States Post Office Mailbox at Dallas, Texas, addressed as follows:

Charles R. Center  
Chief Administrative Law Judge  
Office of Administrative Law Judges  
Federal Labor Relations Authority  
1400 K Street NW, Second Floor  
Washington, D.C. 20424-0001  
Tel: 202-218-7950  
Fax: 202-482-6629

Certified No. 7008 1140 0004 1427 7734

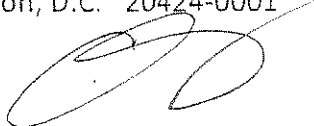
Whitney Coleman  
Labor Relations Specialist  
Federal Bureau of Prisons  
Labor Relations Branch  
346 Marine Forces Drive  
Grand Prairie, TX 75051  
Tel: 972-352-4570  
Fax: 972-352-4258

Certified No. 7008 1140 0004 1427 7741

John Sullins  
Union 1<sup>st</sup> Vice President  
AFGE, Local 1637  
3017 Sandhurst Dr.  
Mesquite, TX 75181  
Tel: 214-534-5428  
Fax: n/a  
[jsullins@bop.gov](mailto:jsullins@bop.gov) or [marksullins@sbcglobal.net](mailto:marksullins@sbcglobal.net)

Certified No. 7008 1140 0004 1427 7758

Julia Akins Clark  
General Counsel  
Office of General Counsel  
Federal Labor Relations Authority  
1400 K Street NW, Second Floor  
Washington, D.C. 20424-0001



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**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

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Department of Justice  
Federal Bureau of Prisons,  
Federal Correctional Institution  
Seagoville, Texas

Case No. DA-CA-12-0216

Respondent  
and  
American Federation of Government Employees  
Council of Prison Locals, Local 1637  
Charging Party

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Date: July 16, 2012

**RESPONDENT'S ANSWER TO COMPLAINT**

1. Admit.
2. Admit.
3. Admit.
4. Admit.
5. Admit.
6. Admit.
7. Admit.
8. Admit.
9. Admit
10. Admit.
11. Admit.
12. Admit
13. Admit.
14. Admit

15. Admit
16. Admit.
17. Admit.
18. Admit.
19. Admit.
20. Admit.

Respectfully submitted,



Jennifer A. Spangler  
Assistant General Counsel  
Federal Bureau of Prisons  
Employment Law Branch

**CERTIFICATE OF SERVICE  
CH-CA-12-0049**

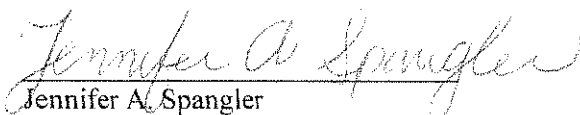
I certify that the attached documents were sent by the method specified below to the following parties on this date:

Chief Administrative Law Judge Office of Administrative Law Judges Federal Labor Relations Authority 1400 K Street N.W., Third Floor Washington, D.C. 20424-0001	One Original & Four Copies	US Mail
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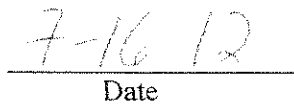
James E. Petrucci/ Nora Hinojosa Federal Labor Relations Authority Dallas Regional Office 525 S. Griffin Street Suite 926, LB-106 Dallas, TX 75202-5903		US Mail
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John Sullins, 1 <sup>st</sup> VP AFGE Local 1637 3017 Sandhurst Drive Mesquite, TX 75181		US Mail
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Julia Akins Clark, General Counsel Office of the General Counsel Federal Labor Relations Authority 1400 K Street NW, Second Floor Washington, D.C. 20424-0001		US Mail
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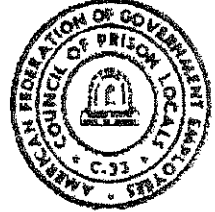
Jennifer A. Spangler  
Assistant General Counsel  
Federal Bureau of Prisons  
Employment Law Branch  
Tower II, Room 802  
4th and State Avenue  
Kansas City, KS 66101  
(913) 551-1165/ (913) 551-8330 FAX



Date



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES  
COUNCIL OF PRISON LOCALS #33  
LOCAL 1637

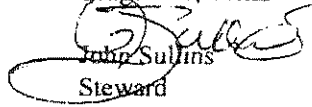


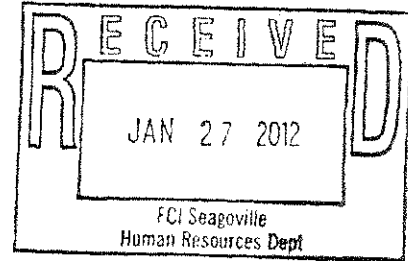
**REQUEST FOR DATA**

**DATE:** January 27, 2012

**REQUESTOR:** AFGE Local 1637  
Federal Bureau of Prisons  
Federal Correctional Institution  
Seagoville, Texas

**AGENCY CONTACT:** Trina Wiginton  
Employee Services Manager  
Federal Bureau of Prisons  
Federal Correctional Institution  
Seagoville, Texas

**UNION CONTACT:**   
John Sullins  
Steward  
Council of Prison Locals #33  
AFGE Local 1637



**The American Federation Of Government Employees, Local 1637 is the sole and exclusive representative for all bargaining unit employees as defined in 5 United States Code (U.S.C.), Chapter 71, seeks the following information in accordance with the provisions of 5 U.S.C. §7114 (b) (4) as deemed necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining.**

1. The total number of days of sick leave used at FCI Seagoville over the past 12 months, concurrent (either before or after) with the employee's days off and federally observed holidays. Broken down by department, race, and gender for all bargaining unit employees.
2. The total number of employees working at FCI Seagoville who have received "letters of counseling" regarding sick leave usage over the last 12 months, broken down by department, race, and gender for all bargaining unit employees.

**DEFINITIONS:**

**Sick Leave** – By the term "sick leave" the union is referring to any type of leave that reduces the employee's sick leave balance. ( I.E.. Sick Leave, Family Friendly Leave and Family Medical Leave)

**Letters Of Counseling** – Any documentation issued to the employee requiring the employee to provide medical documentation before Sick Leave, FFLA or FMLA will be approved.

GC Ex C



**PARTICULARIZED NEED:**

As you are aware beginning in September, 2009, Management began issuing letters of counseling to bargaining unit employees regarding the use of sick leave. These letters read in part "A review of your sick leave usage since January 01, 2009 revealed you have utilized XXX hours of sick leave. Additionally, XXX of those hours have been in conjunction with your scheduled days off. I have determined that this pattern is unacceptable" The letters go on to say that sick leave will not be approved without medical documentation from the employees attending physician and that failure to provide the documentation may subject the employee to disciplinary action. (See attached example letters issued to employees)

On May 13, 2010 the Union submitted a request for the following five points of information:

1. The Total number of days of sick leave used at FCI Seagoville over the last 12 months, broken down by department, bargaining unit employees, non-bargaining unit employees, race and gender.
2. The total number of days of sick leave used at FCI Seagoville over the past 12 months, concurrent with the employees days off broken down by department, bargaining unit employees, non-bargaining unit employees, race and gender.
3. The total number of days of sick leave used at FCI Seagoville over the last 12 months, concurrent with (either before or after) the Bureau days off (Sunday/Saturday) and federally observed holidays, broken down by department, bargaining unit employees, non-bargaining unit employees, race and gender.
4. The total number of employees working at FCI Seagoville who have received "Letters of Counseling" regarding sick leave usage over the last 12 months broken down by department, bargaining unit employees, non-bargaining unit employees, race and gender.
5. The total number of employees working at FCI Seagoville broken down by department, bargaining unit employees, non-bargaining unit, race and gender.

While meeting with T. Wiginton on June 15, 2011 the Union was informed that the request would be ready on Friday, June 17, 2011, and that all of the data would not be provided. She said in order to so would require an audit of everyone sick leave and that was not going to happen. The Agency failed to provide any of the requested data or provide a formal response of any kind. A ULP was filed on August 26, 2011, with FLRA in Dallas, TX. After the ULP was filed the Agency provided the Union with data requested in items 1,4 and five. The ULP was withdrawn and a reformulated second request was submitted on September 26, 2011 requesting the following information.

1. The total number of days of sick leave used at FCI Seagoville over the past 12 months, concurrent (either before or after) with the employee's days off and federally observed holidays. Broken down by department, race, and gender for all bargaining unit employees.
2. The total number of employees working at FCI Seagoville who have received "letters of counseling" regarding sick leave usage over the last 12 months, broken down by department, race, and gender for all bargaining unit employees.

The Agency failed to respond to the Unions request in any form and A ULP was filed on November 8, 2011 with the FLRA in Dallas. On January 27, 2012 the Union withdrew that ULP to make this second request for the above requested information. The initial information provided to the Union without the information requested above is insufficient for the Union to determine if any violations or discrimination has occurred. The requested information will be utilized as follows:

1. The requested information will be used by the Union to conduct a comparative analysis of sick leave usage within FCI Seagoville. The Union will also use this information to ensure that all Articles of the Master Agreement have been followed and that there have been no violations of Title VII Of The Civil Rights Act Of 1964, The ADEA Act Of 1967, The ADA Act Of 1990, The FFLA Act Of 1994 or The FMLA Act Of 1993. The Union will also utilize this information to ensure that no Prohibited Personnel Practices have been committed under Title 5 U.S.C. § 2302 (b) or that there has been no discrimination or retaliation taken against bargaining unit members. It specifically will examine the criteria utilized by the Agency of the total number of sick days used by bargaining unit employees in conjunction with their days off to ensure that all members of the bargaining unit are being treated equally. If a violation has occurred the Union will use this information as evidence in the remedy procedure in which it files. (Unfair Labor Practice, Grievance, Complaint with EEOC or Office Of Special Council)

2. The requested information will be used by the Union to conduct a comparative analysis of the employees who have received letters of counseling regarding sick leave usage at FCI Seagoville. The Union will use this information to ensure the letters were issued in accordance with Article 20 of the Master Agreement. The Union will also utilize this information to ensure that no Prohibited Personnel Practices have been committed under Title 5 U.S.C. § 2302 (b) or that there has been no discrimination or retaliation taken against bargaining unit members. It specifically will examine the criteria utilized by the Agency of the total number of sick days used by bargaining unit employees in conjunction with their days off to ensure that all members of the bargaining unit are being treated equally as required by Article 6, Section B. 2 of the Master Agreement. If a violation has occurred the Union will use this information as evidence in the remedy procedure in which it files. (Unfair Labor Practice, Grievance, Complaint with EEOC or Office Of Special Council)

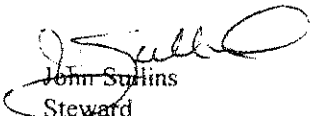
**PRIVACY ACT:** The Union request that this information be sanitized so it does not included any personal identifiers and therefore no privacy statutory issues exist from this request.

- Ref: 1. Information is maintained by the agency.  
2. Information is maintained by the agency.

**OTHER MATTERS:**

The Union request this information be provided within Fifteen (15) business days in a tabbed and indexed format.

Please contact me if the agency requires further clarification of our request or wants to meet to discuss the request, or a format or means of furnishing this information to the Union, or the issues giving rise to this request.

  
John Sullins  
Steward

Council of Prison Locals #33  
AFGE Local 1637  
Cell Phone: (214) 534-5428  
Home E-mail Address: [marksullins@sbcglobal.net](mailto:marksullins@sbcglobal.net)

Received by: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_



U.S. Department of Justice

Federal Bureau of Prisons

Federal Correctional Institution

Seagoville, Texas 75159

September 10, 2009

[REDACTED]

[REDACTED]

A review of your sick leave usage since January 1, 2009, revealed you have utilized 91.00 hours of sick leave. Additionally, 64 of those hours have been in conjunction with your scheduled days off. I have determined that this pattern of leave usage is unacceptable.


In the future, Sick Leave will not be approved unless you provide me with a medical certification. For sick Leave used, you are required to provide me with a signed, written statement from your attending physician attesting to your incapacity to work in your job category and giving the expected length of incapacitation.

I will continue to require medical certification from you, for all sick Leave used, for a period of three months beginning on the date you receive this letter. At the conclusion of this three month period, a written determination of whether to continue this requirement will be made.

If you do not provide this information upon your return to duty from sick Leave, you will be charged Absent Without Leave (AWOL). You may also be subject to disciplinary action.

Please contact me if you have any questions regarding this letter.

Sincerely,

  
M. Perez  
Captain

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I have received the original and one copy of this letter.

[REDACTED]

Signature

9-11-09  
Date



U.S. Department of Justice

Federal Bureau of Prisons

Federal Correctional Institution

Scagoville, Texas 75159

January 17, 2012

[REDACTED]

You have called in sick a total of 168 hours since September 2011. Thirteen days (104 hours) of the 168 hours used have been in conjunction with your days off. I have determined that this pattern of sick leave usage is unacceptable.

In the future, sick leave will not be approved unless you make contact with me, your immediate supervisor or the Business Administrator via telephone and provide medical certification. For sick leave used, you are required to provide me a signed, written statement from your physician attesting to your incapacity for work in your job category and giving the expected length of incapacitation.

I will continue to require medical certification from you, for all sick leave used, for a period of three (3) months beginning on the date you receive this letter. At the conclusion of this three (3) month period, a written determination of whether to continue this requirement will be made.

If you do not provide this information upon your return to duty from sick leave, you will be charged Absent Without Leave (AWOL). You may also be subject to disciplinary action.

Please contact me if you have questions about this letter.

Sincerely,

Tammie Johnson  
Supervisor Contract Specialist

I have received the original and one copy of this letter

Signature

[REDACTED]

Date

\_\_\_\_\_



# NOTICE TO ALL EMPLOYEES

POSTED PURSUANT TO A SETTLEMENT AGREEMENT  
APPROVED BY A REGIONAL DIRECTOR OF THE  
FEDERAL LABOR RELATIONS AUTHORITY

**WE HEREBY NOTIFY OUR EMPLOYEES THAT:**

**WE WILL NOT** fail to provide the American Federation of Government Employees (AFGE), Local 1637 (Union), the exclusive representative of a unit of our employees, information requested for representational purposes in accordance with Section 7114(b)(4) of the Federal Service Labor Management Relations Statute (Statute).

**WE WILL NOT** in any like or related manner interfere with, restrain, or coerce our employees in the exercise of rights assured them by the Statute or the negotiated agreement between the parties.

**WE WILL** provide the information requested on January 27, 2012, to AFGE Local 1637.

Federal Bureau of Prisons  
Federal Correctional Institution  
Seagoville, Texas

Dated \_\_\_\_\_  
Maureen Cruz  
Warden

**THIS IS AN OFFICIAL NOTICE  
THIS NOTICE MUST REMAIN POSTED FOR 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 for the Federal Labor Relations Authority whose address is:

525 S. Griffin, Suite 926, LB 107  
Dallas, TX 75202  
214-767-8266