

ADDENDUM TO MEET & CONFER MEETING

March 7, 2014

Director Ryan greeted the group and addressed the following questions and agenda items.

SUBMITTED QUESTIONS AND ANSWERS

Neither AZCPOA nor ACA posed any questions for the meeting. The following questions were posed by the Fraternal Order of Police, Lodge 44:

Question 1 - The most current DO #601 Administrative Investigations and Employee Discipline, effective April 29, 2013, under Discipline Chart Introduction, no longer contains the following:

“Progressive Discipline – Caution should be exercised to prevent the practice of stacking charges against an employee.”

- *Was the above sentence thoughtfully and purposefully removed, and if so, why?*

Answer 1 – The revised policy has been in effect for almost 11 months. All revisions to policies are thoughtfully developed. The purpose for the revision was further clarification, as questions have been posed by many reviewers.

Question 2 - The following directions contained in DO #601 601 Administrative Investigations and Employee Discipline, effective April 29, 2013, appear to encourage the imposition of multiple violations for a single event:

“Multiple Infractions - In cases involving more than one sustained violation, disciplinary action should begin with the most serious violation. Other violations may then be considered as aggravating circumstances when determining the appropriate penalty from within the minimum and maximum recommended range, or each violation may be individually considered and the penalties cumulated. Multiple violations in any class may result in the imposition of penalties in the next higher class. Aggravating circumstances may warrant the imposition of penalties in the next higher class.”

- *Was the intent of these directions to encourage the imposition of multiple violations for a single event?*
- *Will it now be the common practice of the Department’s Approving Authorities to charge an employee with all applicable violations that result from a single incident or event?*

Answer 2 – The policy was revised almost 11 months ago, and was intended to ensure consistent implementation throughout ADC by providing clarification requested from the reviewers. The (charging) process takes some time possibly giving the appearance of stacking of charges. There may, in fact, be multiple violations stemming from a single event.

Example 1: DUI (1 violation)

Example 2: DUI, fleeing from police officer, assaulting police officer (3 violations)

ADDENDUM TO MEET & CONFER MEETING

March 7, 2014

Example 3: Unnecessary use of force (1 violation)

Example 4: Unnecessary use of force, falsifying incident report (2 violations)

Deputy Director Hood advised that the DO #601 policy and chart of disciplinary sanctions were developed in consultation with our designated Attorney General.

Question 3 - Since there is no longer a prohibition against stacking violations, it does appear that the practice of charging multiple violations will substantially increase the penalties imposed as corrective action on any employee. Certainly, employees are being held to a higher standard than the inmates they supervise, however, this practice is still unacceptable when conducting inmate discipline within the same Department to prevent any appearance of abuse of authority.

- *Was it the intent of the Department to significantly change approximately thirty (30) years of precedent for corrective action, discipline, for the employees of ADC?*

Answer 3 – The Director stated that the question posed by the FOP was disingenuous and not forthcoming. He further requested an explanation for the precedent change for 30 years that is being suggested. Is the FOP suggesting by way of Examples #2 and #4 above (Question 2) that these would be stacking violations from a single event? Director Ryan requested that Richard Mehner set a meeting with him and bring specific examples to discuss.

Question 4 - DO 601.06.1.2.3.2 States that an employee representative:

“1.2.3.2 Not be a subordinate or an individual within the employee’s chain of command.”

- *We request the policy changed to the following:*
- *“1.2.3.2 Not be a DIRECT subordinate or an individual within the employee’s DIRECT chain of command.”*

Answer 4 – The Director approved the change as indicated above: “1.2.3.2 Not be a DIRECT subordinate or individual within the employee’s DIRECT chain of command.” The Director also discussed the Step 3 Grievance level, which is the Director Level. The Director “may” meet with the employee and/or his/her representative for more information or clarification. An exception to the time frame required in the Personnel Rules since Personnel Reform (to 40 days) has been approved by ADOA.

Question 5 - DO 601.03.1.1.3.2 States that:

“1.1.3.2 Supervisors shall ensure the employee is given an opportunity to provide a written response to the Administrative Inquiry form (three workdays)”.

- *We request the policy changed to the following:*

ADDENDUM TO MEET & CONFER MEETING

March 7, 2014

- *“1.1.3.2 Supervisors shall ensure the employee is given an opportunity to provide a written response to the Administrative Inquiry form (three workdays) and provide up to three consecutive work hours to provide a written response.”*

Answer 5 – The Issue of completing grievance reports on the employees’ personal time was understood and not disputed. Discussion ensued with respect to employees’ utilizing personal time to complete investigative reports. Director Ryan and Colleen McManus agreed to raise this issue to ADOA for further discussion. In the interim, it is ADC’s operational practice that supervisors allow their subordinates a reasonable amount of work time to complete responses to administrative inquiries.

Addendum to Answer 5 -- Ms. McManus conferred with ADOA regarding whether a set amount of hours should be granted to employees to complete their written responses to Administrative Inquiries. They carefully reviewed the ADC policy, D.O. 601, and, specifically, section 1.1.3.2, which states:

“Supervisors shall ensure the employee is given an opportunity to provide a written response to the Administrative Inquiry form (three workdays).”

The policy analysts at ADOA found that the ADC policy clearly affords employees an opportunity at work to provide their written response. If anyone has been denied this opportunity, they should contact Employee Relations. There will be no change to the policy.

UNIFORM COMMITTEE UPDATE

Director Ryan provided information regarding uniform changes, provided by the ADC Uniform Committee, which met this week. It is mandatory, not optional, that hash marks, each equivalent to four years of service, will be approved for shirts--not sweaters and jackets. Long sleeved polo shirts will not be approved. Other approved changes to the uniform policy are forthcoming.

EMPLOYEE GRIEVANCES

The subject of employee grievances was discussed earlier in the meeting. Colleen McManus stated that the final version of the Grievance Policy, DO #517, has been approved by ADOA. Ronda Lee will review the policy which will then be approved by Director Ryan and published.

DRUG TESTING

Director Ryan advised the group that the random drug testing policy is expected to be implemented about May 1st. Gail Rittenhouse is convening a focus group on March 31st, comprising of representatives from each complex. The focus group members will

ADDENDUM TO MEET & CONFER MEETING

March 7, 2014

be provided a draft of the DO #522 and asked if the wording is clear and how they feel the information should be conveyed to staff.

SUPPLEMENTAL BENEFIT

The Legislation on the Supplemental Benefit (the additional amount paid to eligible staff to supplement Workers' Compensation) has left it to the agency (ies) to set definitions regarding catastrophic or serious injury. There is a hearing next week, chaired by Senator Crandell, regarding an amendment clarifying the supplemental benefit.

Language on cancer insurance is being drafted advising that the Department shall not pay; however, the insurance will be optional for employees during benefit selection.

COMPENSATION PLAN

ADC's FY14 Compensation Plan has been approved by ADOA. The plan includes several distinct compensation types including:

- A. Stipends and Equity Adjustments: 1) Colleen McManus explained that a funding proposal has been submitted to ADOA and the Governor's Office recommending re-establishment of a stipend program for COIIs at five prison complexes. 2) Compression issues are also being addressed statewide for selected Sergeants, Lieutenants, Captains, CO3s, CO4s, CCOs, CCO Seniors, and CC Supervisors. 3) Director Ryan is also recommending equity adjustments for selected Correctional Administrators and Investigators.
- B. Merit Pay recommendations are currently being finalized and must be completed before the fiscal year is ended. The current proposal does not allow for merit pay adjustments that affect the employees' base pay. Only lump sum merit pay (one time bonuses) can be awarded this year.

STAFF/INMATE RELATIONSHIPS

The Director discussed staff misconduct and the recent display of "Don't Be This Employee" flyers. These flyers show former employees' photos side by side—one photo in ADC uniform and one taken as the employee was booked into jail. The two most recent criminal behaviors concern staff sexual involvement with a former inmate and inappropriate use of force on a restrained inmate.

INTERIM ASSIGNMENTS

The Director informed the group as follows:

ADDENDUM TO MEET & CONFER MEETING

March 7, 2014

1. Carson McWilliams is Interim Director of Offender Operations with Robert Patton's appointment as Director of the Oklahoma Department of Corrections.
2. Ernie Trujillo is the Interim Northern Region Operations Director.
3. Joe Profiri is the Interim Southern Region Operations Director.
4. Tara Diaz is the Interim Contract Beds Operations Director.
5. Richard Pratt is the Interim Director of Health Services with Art Gross' recent retirement.

RECENT INCIDENTS

The Director reminded attendees of recent serious incidents at various complexes over the past few months. Discussions need to be initiated to determine if there are new safety procedures which may need to be established.

OTHER ITEMS

A question arose with respect to microcassette recorders being permitted in the complexes to be used by staff representatives during Administrative Investigations. The Director will review the process and ensure policy is clear.

ANNOUNCEMENTS

The Director informed the group of the memorial service for Phoenix Police Detective John Hobbs. The ADC Honor Guard and several employees will be in attendance at the service.

Be mindful of the anniversary of the death of Officer Brent Lumley (March 7, 1997). Keep him and his family in your thoughts and prayers.

If you have any issues you would like to discuss with me, please make an appointment to see me.

cc: Executive Staff
Wardens
Paul O'Connell
File