

80116

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

**DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS
AND
FRATERNAL ORDER OF POLICE DEPARTMENT OF CORRECTIONS
LABOR COMMITTEE**

3/9/03

(corrections)

7,700
workers

12/19/02--9/30/05

44 pages

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PREAMBLE

Section 1: This Collective Bargaining Agreement is entered into between the District of Columbia Department of Corrections (Employer, Agency, Management or Department) and the Fraternal Order of Police Department of Corrections Labor Committee (Union).

Section 2: The parties to this Agreement hereby recognize that the collective bargaining relationship reflected in this Agreement is of mutual benefit and the result of good faith collective bargaining between the parties. Further, both parties agree to establish and promote a sound and effective labor-management relationship in order to achieve mutual understanding of practices, procedures and matters affecting conditions of employment and to continue working toward this goal.

Section 3: The parties hereto affirm without reservations the provisions of this Agreement and agree to honor and support the commitments contained herein. The parties agree to resolve whatever differences may arise between them through the avenues for resolving disputes agreed to herein.

Section 4: It is the intent and purpose of the parties hereto to promote and improve the efficiency and quality of services provided by the Department. Therefore, in consideration of the mutual covenants and promises contained herein, the Employer and the Union do hereby agree as follows:

ARTICLE 1 RECOGNITION

The Fraternal Order of Police/Department of Corrections Labor Committee has been designated by the employees in the unit described below as their preference for exclusive representative for the purpose of collective bargaining over terms and conditions of employment, including compensation, with the District of Columbia Department of Corrections.

UNIT:

“All employees of the D.C. Department of Corrections excluding managerial employees, confidential employees, supervisors, temporary employees, physicians, dentist and podiatrist, institutional residents (inmates) employed by the Department, or any employees employed in personnel work in other than a purely clerical capacity and employees engaged in administering provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978.”

ARTICLE 2
MANAGEMENT RIGHTS

Section 1: The Department and the Union recognize the Comprehensive Merit Personnel Act, as codified at D.C. Code § 1-618.8, provides that the Department shall retain the sole right, within applicable laws and rules and regulations:

- A. To direct employees of the agency;
- B. To hire, promote, transfer, assign, and retain employees in positions within the agency and to suspend, demote, discharge, or take other disciplinary action against employees for cause;
- C. To relieve employees of duties because of lack of work or other legitimate reasons;
- D. To maintain the efficiency of the District government operations entrusted to them;
- E. To determine the mission of the agency, its budget, its organization, the number of employees, and the number, types, and grades of positions of employees assigned to an organizational unit, work project, or tour of duty, and the technology of performing its work; or its internal security practices; and
- F. To take whatever actions may be necessary to carry out the mission of the District government in emergency situations.

All matters shall be deemed negotiable except those that are proscribed by the subchapter referenced at D.C. Code § 1-618.8. Negotiations concerning compensation are authorized to the extent provided in D.C. Code §1-618.16.

Section 2: The parties recognize that such management rights are beyond the scope of collective bargaining.

ARTICLE 3
EMPLOYEE RIGHTS

Section 1: The Department and the Union recognize the Comprehensive Merit Personnel Act, as codified at D.C. Code §1-618.6(a), provides that all employees shall have the right:

- A. To organize a labor organization free from interference, restraint, or coercion;

- B.** To form, join, or assist any labor organization or to refrain from such activity; and
- C.** To bargain collectively through representatives of their own choosing as provided in this subchapter.

Section 2: The Department and the Union recognize the Comprehensive Merit Personnel Act, as codified at D.C. Code §1-618.6(b), provides that:

Notwithstanding any other provision in this chapter, an individual employee may present a grievance at any time to his or her employer without the intervention of a labor organization: Provided, however, that the exclusive representative is afforded an effective opportunity to be present and to offer its view at any meetings held to adjust the complaint. Any employee or employees who utilize this avenue of presenting personal complaints to the employer may not do so under the name, or by representation, of a labor organization. Adjustments of grievances must be consistent with the terms of the applicable collective bargaining agreement. Where the employee is not represented by the union with exclusive recognition for the unit, no adjustment of a grievance shall be considered as a precedent or as relevant either to the interpretation of the collective bargaining agreement or to the adjustment of other grievances.

Section 3: The Department and the Union agree that employees have the right to participate in the management of the Union or acting as a representative of the Union.

Section 4: The terms of this contract do not preclude any employee from bringing matters of personal concern to the attention of the appropriate officials in accordance with applicable laws, regulations and procedures.

Section 5: It is understood that the employees in the bargaining unit shall have full protection of all articles of this Contract as long as they remain in the unit.

Section 6: Management shall not restrain, interfere with, coerce or discriminate against employees in the exercise of their right to organize and designate representatives of their own choosing for the purpose of collective bargaining, the prosecution of grievances, and labor-management cooperation, or upon duly designated employee representatives acting on behalf of an employee or group of employees within the bargaining unit.

Section 7: The Employer shall not take any action against bargaining unit employees in reprisal for exercising a right under this Agreement. This section does not modify or diminish management's rights to take personnel actions under applicable regulations, Department orders and other relevant articles in this Agreement.

ARTICLE 4
UNION SECURITY AND DUES DEDUCTIONS

Section 1: The terms and conditions of employment contained in this Agreement shall apply to all bargaining unit employees without regard to Union membership. Employees covered by this Agreement have the right to join or to refrain from joining the Union.

Section 2: Pursuant to D.C. Official Code Section 1-618.7, the Employer shall deduct dues from the bi-weekly salaries of those employees who authorize the deduction of said dues. The dues check-off authorization may be cancelled by the employee at any time upon written notification to the Union and the Employer. When Union dues are cancelled, the Employer shall withhold a service fee without written authorization.

Section 3: The employee's authorization shall be forwarded to the Office of Labor Relations and Collective Bargaining (OLRCB) along with D.C. Form 277.

Section 4: Each employee's Union dues and service fees shall be transmitted to the union, minus 75 cents to the Office of Labor Relations and Collective Bargaining for the administrative cost associated with the collection of said dues and service fees.

Section 5: The Employer and the District Government as a whole shall be indemnified or otherwise held harmless for any errors or omissions in carrying out this Article.

Section 6: The service fees for bargaining unit employees who are not members of the union shall be equal to the proportionate share of the union's costs of negotiating and administering the collective bargaining agreement and adjusting the grievances and disputes of bargaining unit employees. The Union shall be solely responsible for providing notices to bargaining unit employees who are not members and for maintaining procedures consistent with the constitutional rights under Hudson v. Chicago Teachers Union and related cases. The Union will make notification in its Newsletter, website and do an annual mailing consistent with the Hudson requirements. Should the Union's annual Hudson plan result in any challenges or objections, the arbitration award shall establish the amount of service fees for non-member employees. The Union shall annually notify management of the pro-rata amount to be paid for service fees and the results of any arbitration award under Hudson should it result in a change in service fees payable by any unit member.

Section 7: Union membership shall not be a condition of employment.

ARTICLE 5
UNION-MANAGEMENT MEETINGS

Section 1: It is agreed that the Director and the Union shall meet every month or as otherwise agreed to by the parties to further labor-management cooperation as a standing Labor-Management Committee. The Labor-Management Committee shall be an entity distinguished from any Labor-Management Partnership Council created by the parties. The Union shall each select seven (7) members to serve on this Committee.

Section 2: It shall be the function of this Labor-Management Committee to discuss different points of view and exchange views on working conditions, terms of employment, matters of common interest or other matters that either party believes will contribute to improvements in the relations between them within the framework of this Agreement. It is understood that appeals, grievances or problems of individual employees shall not be a subject of discussion at these meetings. Other meetings of the Committee may be scheduled as the need arises upon mutual agreement of the parties.

Section 3: The Warden/Administrator along with designated staff representatives will meet monthly at each institution, facility and unit with three (3) Union representatives as a standing Labor-Management Partnership Committee to discuss and review common interests for promoting labor-management cooperation at the institutional level. Other meetings may be held when the need arises upon mutual agreement of the parties.

Section 4: The Department and the Union agree to exchange agendas of topics to be discussed at least five (5) days in advance of the date set for the meetings. If unusual circumstances or timeliness of events do not allow for discussion of items on the agenda submitted in advance of the meeting, the issues thus presented might either be discussed by both parties or tabled for later discussion by either party.

Section 5: The members of the standing Labor-Management Committee appointed by the Union shall be granted official time to attend the above conference when the conferences occur during the regular working hours of the employees. The Union shall notify the Department at least one (1) day in advance of any scheduled meeting if an alternate will attend in the absence of the appointed member.

Section 6: A brief summary of the matters discussed and any understanding reached will be prepared and recorded by the Employer and a recording along with a summary will be furnished to the Union before the next meeting.

Section 7: The Agency shall notify and provide the Union with the opportunity to bargain regarding new policies or procedures that are subject to the duty of bargaining before implementation.

ARTICLE 6
EQUAL EMPLOYMENT OPPORTUNITY

Section 1 – General Provisions: The Employer agrees that it will not in any way discriminate against any employee because of his/her membership or affiliation in or with the Union or service in any capacity on behalf of the Union. Neither party to this Agreement will discriminate against any employee with regard to race, color, religion, national origin, age, marital status, sexual orientation, sex, political affiliation, physical handicap, or as otherwise provided by law.

Section 2 – Equal Employment Practices: The Employer agrees to vigorously continue the implementation of its Equal Employment Opportunity Program as approved by the Director, D.C. Office of Human Rights. For the purpose of this Agreement, the Department/Agency's Affirmative Action Plan will be observed.

The Union shall designate an Affirmative Action Coordinator who shall, upon request, attend meetings of the Department's Affirmative Action Counselors, and be permitted to meet with Department EEO officials to discuss implementation of the Affirmative Action Plan including Departmental policies and programs.

Section 3 – Discrimination Charges: Any charges of discrimination shall be presented to the appropriate administrative agency having jurisdiction over the matter and shall therefore not be subject to the negotiated grievance procedure.

ARTICLE 7
OFFICIAL TIME

Section 1 – Number of Representatives:

A. Members of the Executive Board and Chief Shop Stewards shall be allowed up to four (4) hours per day to engage in representational activities as defined in Section 5, below. Requests for official time shall be made in accordance with the procedures in Section 4.

B. Designated Union officials or stewards shall be provided a reasonable amount of official time to represent bargaining unit employees.

Section 2 – Designation of Representatives:

A. The Union agrees to provide the Agency and the Office of Labor Relations and Collective Bargaining (OLRCB) with a written listing of its officers and stewards along with a copy of its Constitution and by-laws. Those Union officers and stewards provided for in the Union's Constitution and by-laws shall be eligible for official time. The listing and changes thereto normally will be submitted to the Agency's Labor Relations Officer

or other designated official at least two (2) workdays prior to the assumption of representational responsibilities by any new officers, stewards or other representatives. If an official is not on the list of designated representatives and is needed prior to the two (2) days notice, the Union President shall notify the Agency head or his/her designee by phone or facsimile before the official will be recognized. The Agency will not recognize any official/representative who is not listed as required or for whom notification was not provided in accordance with this Section.

B. This Agreement shall not be interpreted in any manner which interferes with the Union's right to designate representatives of its own choosing on any particular representational matter.

C. The Union will be notified prior to any change in shift assignments of duly appointed stewards. The Union will also be notified prior to the organization of new shifts that would affect the members of the unit.

D. Employees required to appear at meetings and conferences at the request of District, U.S., or management officials, or pursuant to a request from the D.C. Council, D.C. Office of Personnel, the Office of Personnel Management or the U.S. Congress, shall not be charged annual leave for such purposes and shall be provided administrative leave to the extent consistent with law and regulation. The employee receiving such a request shall immediately notify the appropriate supervisor and, upon request, provide a copy of the request or other appropriate evidence of the request.

Section 3 – Performance Appraisals:

A. No Union representative will be disadvantaged in the assessment of his/her performance based on his/her use of official time when conducting labor-management business authorized by this Article. However, it is understood that performance problems unrelated to the use of official time may be addressed in accordance with other relevant provisions of this Agreement.

B. At the beginning of the rating year or when the Union representative is initially appointed, both workload and performance expectations will be adjusted to reflect actual use of official time. Additionally, the supervisor and the Union representative will meet at least quarterly to discuss needed adjustments to workload and representational needs, based upon documented use of official time.

C. The performance of Union representatives will be rated on the basis of prorated work time; i.e., the work performed in available work time after official time has been subtracted.

Section 4 – Requests for Official Time:

- A.** All official time for all Union representatives must be requested and approved in advance consistent with workload requirements except when exceptional circumstances (e.g., unscheduled meetings called by management where the Union’s attendance is requested, representation of employees in interviews or circumstances where the employee might be subject to discipline) do not allow for advance approval.
- B.** The Union representative will request authorization from his or her supervisor. The Union representative will indicate to the supervisor or designee, on the “Official Time Report” form (**See Attachment**) the general nature of the representational activity he or she wishes to carry out and approximate length of time he or she believes is required.
- C.** All advance requests for official time are understood to be estimates.
- D.** The Union will complete the form to accurately depict the actual official time used in a timely manner each pay period.
- E.** Workload needs will be balanced with official time needs prior to approval based on the following standard: official time requests will be granted unless they hinder the accomplishment of essential workload requirements that cannot otherwise be accommodated.
- F.** All affected employees (e.g., grievants, representatives, witnesses, and appellants) whose presence has been determined to be necessary at relevant proceedings (including hearings, meetings, arbitrations, oral replies, or other labor-management business) will receive necessary official/duty time to travel to and from the proceedings.

Section 5 – Official Time for Representational Activity:

- A.** Pursuant to the statutory right and responsibility of the Union to represent bargaining unit employees, representatives of the Union will be granted reasonable amounts of official time to investigate, prepare for, and conduct representational functions in accordance with the provisions of this Article.
- B.** For the purpose of this Article, “representational functions” means those authorized activities undertaken by employees on behalf of other employees or the Union pursuant to representational rights under the terms of this Agreement and District of Columbia law. Examples of activities for which official time will be authorized include:
1. negotiations;
 2. discussions with Employer representatives concerning personnel policies, practices, and matters affecting working conditions;

3. any appeal proceedings or other forum in which the Union is representing an employee or the Union pursuant to its obligations under relevant contract provisions, regulations, or law;
4. grievance meetings and arbitration hearings;
5. EEO complaint settlements, and administrative and/or court hearings if a complaint is processed under the negotiated grievance procedure, or if the Union is representing the employee;
6. a disciplinary or adverse action oral reply meeting, if the Union is designated as representative of the employee;
7. any meetings for the purpose of presenting replies to the proposed termination of probationers, if the Union is designated as representative of the employee;
8. any meetings for the purpose of presenting reconsideration replies in connection with the denial of within-grade increases, if the Union is designated as representative of the employees;
9. attendance at an examination of an employee who reasonably believes he or she may be the subject of a disciplinary or adverse action under Chapter 16 of the DPM and the employee has requested representation;
10. informal consultation meetings between the Employer and the Union;
11. conferring with affected employees about matters for which remedial relief is available under the terms of this Agreement;
12. to effectuate contacts with officials of government including the Mayor, Council of the District of Columbia, Congress and their staffs;
13. attendance at meetings of committees on which Union representatives are authorized membership by the Employer or this Agreement;
14. attendance at labor-management partnership meetings or other cooperative effort;
15. attendance at agency recognized/sponsored activities to which the Union has been invited;

16. to participate in joint labor-management committee meetings;
17. necessary travel to any of the activities listed above.

C. Official time shall not include time spent on internal Union business, including, but not limited to:

1. Attending Union meetings;
2. Soliciting members;
3. Collecting dues;
4. Posting notices of union meetings;
5. Carrying out elections;
6. Preparing and distributing internal Union newsletters or other such internal documents; and
7. Internal union strategy sessions for appeals, administrative hearings or arbitration proceedings.

D. The employee requesting official time for any of the purposes set forth in this Article will advise his/her immediate supervisor or designee of the time of return to the workstation and assigned duties.

Section 6: The parties acknowledge that there is mutual benefit in addressing questions as to what is "reasonable" and what procedures should be followed to resolve the problems associated with any perception by the Employer that an unreasonable amount of time is being used, or that the intent as to "reasonableness" is otherwise being abused. The parties agree that in any instance or pattern so perceived, it shall be the responsibility of the Employer to promptly communicate to the Chairman and OLRCB its specific concerns.

It shall be the responsibility of the Chairman so contacted to review the matter, to assure that prompt, noticeably effective action is taken to curb any actual abuse or substantial appearance thereof, and to report promptly to the Employer that action was taken as warranted. The parties hereto recognize that abuse may not necessarily be intentional, but that irrespective of intent, the fact or substantial appearance of abuse is disruptive of mutual interests, and in any event, must be effectively dealt with.

If the Union disagrees that there is the fact, or substantial appearance of abuse, it shall communicate this promptly to the Employer. Upon receipt of this communication, the Employer shall fully and fairly consider the Union's views. If the Employer thereafter still perceives the fact or substantial appearance of such abuse, or it is dissatisfied with

the action taken by the Union, it shall determine with respect to the specific case or cases at hand what is reasonable time, and shall so communicate this determination to the aforesaid Chairman and to the employees and the Union representatives involved.

In all cases of perceived abuse of official time, the Employer shall communicate with OLRCB, which shall assist the parties in their interpretation of the Official Time Article and attempt a mutual resolution of the problem.

Section 7: Upon ratification and approval of this Agreement the parties shall jointly conduct training concerning official time and other aspects of this Agreement for supervisors, representatives and employees.

Section 8: The shop steward shall be afforded the opportunity to address unit employees at roll call to explain labor-management business unless conditions in the institution dictate otherwise. Such time shall not exceed five (5) minutes and may be utilized up to three (3) times per week.

Section 9: Stewards assigned tours of duty other than day shift and scheduled days off shall have their assigned tour of duty and scheduled day off (if applicable) changed to coincide with the time of a grievance hearing. However, no overtime or other such form of compensation shall be allowed for attendance at such hearing.

Section 10: This Article does not preclude employees from selecting someone other than a Union representative (excluding management and supervisory officials) to represent him/her in a grievance, except that no rival organization may represent an employee in the negotiated grievance procedure, and provided that if a Union representative is not used, a representative of the exclusive labor organization must be given an opportunity to be present at any meeting held to resolve the grievance.

ARTICLE 8

USE OF OFFICIAL FACILITIES AND SERVICES

Section 1: The Department agrees to permit distribution of Union notices and circulars substantially related to workplace issues to unit employees through regular distribution procedures provided that the Union receives prior approval from the Department.

Section 2: The Department agrees to provide meeting facilities if available upon request to the Director or appropriate facility official. Any cost incurred for the cleaning or maintenance of such facilities after such meeting will be borne by the Union.

Section 3: Under no circumstances will department manpower or supplies be utilized in support of or for internal Union business.

Section 4: The Department agrees to provide a private area for the employees and Union representative when engaging in grievance handling.

Section 5: A copy of Department Program Statements, Orders and Institutional/Facilities directives and DCOP's rules and regulations concerning terms and conditions of employment will be provided to the Labor Committee.

Section 6: The Department agrees to designate at least one (1) secured bulletin board for the exclusive use of the Union in each institution/facility in conspicuous work area locations. The Union shall provide a copy of posted materials to the Department as far in advance prior to posting as possible. Bulletin board postings must be readily identifiable as official Union literature by the use of letterhead, logo or signature of the Union official.

Section 7: The Department shall make available to the Union, as required by law, upon its reasonable request any information, statistics and records relevant to negotiations or necessary for proper enforcement of the terms of this Agreement.

ARTICLE 9 **EMPLOYEE ROSTERS**

Section 1: Upon written request to the appropriate Department Official, on an annual basis, the Union will be provided with the list of names, titles and grades of unit employees by institutions and offices.

Section 2: Upon written request to the appropriate Department Official, the Union will be provided, by each institution and office a list of names, titles, and grades of unit employees appointed, separated, detailed (including details to higher positions), promoted (including temporary promotions) or transferred during the proceeding month. The Department shall include the effective dates of the above action and the projected duration dates, if applicable.

ARTICLE 10 **GRIEVANCE PROCEDURE**

Section 1 – Purpose and Definition: The purpose of this grievance procedure is to establish an effective procedure for the fair, expeditious and orderly adjustment of grievances. Only an allegation that there has been a violation, misapplication or misinterpretation of the terms of this Agreement or the applicable Compensation Agreement or disciplinary actions taken (written admonition, corrective or adverse action) shall constitute a grievance under provisions of this grievance procedure. Any other employee appeals or complaints shall be handled exclusively by the appropriate administrative agency.

Section 2 – Categories:

- A. Personal: An individual's grievance.** In the case of a grievance proceeding without Union representation, the Union must be given the opportunity to offer its view at any meeting held to adjust the grievance.
- B. Group:** A grievance involving a number of employees in any subdivision of the service components: Detention, Correctional, Community, Health, Administrative or Educational.

A group grievance must contain all the information specified in Step 2 (Section 3) of the grievance procedure. A sufficient description of the group shall accompany the grievance. This kind of grievance may be filed at whatever step resolution is possible.

- C. Class:** A grievance involving all the employees in the unit. It must be filed and signed by the Union Chairman or designee at Step 4 of the Grievance procedure. Grievances so filed will be processed only if the issues raised are common to all unit employees.

A class grievance must contain all information specified in Step 2, Section 3 of the Grievance procedure. The Director, or his designee, shall respond in writing within twenty-one (21) days of receipt of the grievance.

Section 3 – Procedure:

- A. Step 1:** The aggrieved employee, with or without a Union representative, shall orally present and discuss the grievance with the employee's supervisor within ten (10) days of the occurrence of the event giving rise to the grievance or within ten (10) days of the employee's knowledge of such event. The supervisor will make a decision on the grievance and reply to the employee and his/her representative within five (5) days after oral presentation of the grievance. In unusual circumstances, where the grievant cannot be physically present, a Union representative, authorized in writing by the Grievant, may present the grievance at this Step without the Grievant present.
- B. Step 2:** If the grievance is not settled, the aggrieved employee, with or without his/her Union representative, shall submit a signed, written grievance to the appropriate Administrator or Office Chief within seven (7) days following the date the response to the oral grievance is due. This specific Step 2 grievance shall be the sole and exclusive basis for all subsequent steps. The grievance at this and at every further step shall contain:

1. A statement of the specific provision(s) of the Agreement alleged to have been violated, misapplied or misinterpreted;

2. The date or dates on which the alleged violation, misapplication or misinterpretation occurred;
 3. A brief description of how the alleged violation occurred;
 4. The specific remedy or adjustment sought;
 5. Authorization for the Union or other employee representatives, if desired by the employee, to act as his/her representative in the grievance; and
 6. The signature of the aggrieved employee and the Union if applicable, according to the category of the grievance.
- C.** Should the grievance not contain the required information, the Grievant shall be notified and given five (5) days from receipt of notification to resubmit the grievance. Failure to resubmit the grievance within the five (5) day period shall void the grievance.
- D.** The Administrator or Office Chief shall respond to the employee in writing, within seven (7) days of receipt.
- E.** **Step 3:** If the grievance remains unsettled, the employee shall submit the grievance to the appropriate Deputy Director within five (5) days following the employee's receipt of the response of an Administrator or Office Chief. The Deputy Director must respond in writing within seven (7) days of receipt.
- F.** **Step 4:** If the grievance remains unsettled, the employee shall submit it to the Director within five (5) calendar days following the receipt of the response of a Deputy Director. Within fifteen (15) days of receipt the Director will respond in writing to the Grievant.
- G.** **Step 5:** If the grievance remains unresolved, the Union, within fifteen (15) days after receipt of the Director's response, shall notify the Director and OLRCB in writing whether the Union intends to request arbitration or requests that the Department agree to utilize the Grievance Mediation procedure described below on behalf of the employee(s).

Section 4 – Grievance Mediation:

- A.** The purpose of this Grievance Mediation procedure is to provide, an innovative method by which the parties may mutually reach satisfactory solutions to grievance prior to the invocation of arbitration. The parties recognize the necessity of carefully considering the circumstances of the particular grievances in deciding whether to utilize this procedure. This procedure, while broadening the channels of grievance resolution, must comply with District of Columbia laws, rules, regulations and the negotiated grievance procedure and shall only be invoked upon mutual agreement of the parties in writing on a case-by-case basis.
- B. Selection**
1. Should the parties fail to resolve the grievance utilizing the grievance procedure set forth above (Section 3), the parties may, within ten (10) days after the Union's request for grievance mediation pursuant to Step 5 of the grievance procedure, mutually agree to utilize the mediation process as set forth below.
 2. A joint request shall be submitted to the Federal Mediation and Conciliation Service (FMCS) or other appropriate authority that provides grievance mediation services, with which the parties jointly agree. The mediator selected must have demonstrated expertise in public sector labor relations and in grievance mediation.
 3. The mediation session must commence within forty-five (45) days of the Agreement to mediate. If the matter is not successfully resolved through mediation or is not scheduled for a mediation session within the forty-five (45) day period, OLRCB and the Union shall select an arbitrator consistent with the terms of this Agreement.
- C. Mediation Procedure**
1. Each party shall have representation at the mediation session.
 2. The grievant(s) shall be present and participate at the mediation session. In the case of a class or group grievance, a maximum of three (3) grievants shall be present as representatives of the class or group.
 3. Mediation sessions shall be informal: the rules of evidence shall not apply.
 4. The mediation session shall be confidential. No record of the session shall be made.

5. During the session, the mediator may meet individually or jointly with participants, however, he/she is not authorized to compel or impose a settlement.
6. The mediation session shall not exceed one (1) day unless the parties agree otherwise.

D. Mediation Conclusion

1. The parties shall sign their respective copies of the Settlement Agreement.
2. Should both parties accept the settlement, it shall not have precedent setting value unless mutually agreed to on a case-by-case basis.
3. Should mediation and any further negotiations among the parties fail to resolve the matter, the arbitration proceedings in accordance with Section 3 may be invoked by the Union within five (5) calendar days of the termination of the mediation session.
4. The mediator shall be barred from arbitrating the grievance in a subsequent arbitration proceeding or testifying in a subsequent arbitration proceeding.
5. Documentation pertaining solely to the Mediation Process including evidence, settlement offers or the mediator's advisory opinion shall be inadmissible as evidence in any arbitration proceeding.
6. The parties shall share the fees and expenses of the mediator equally.

Section 5 – Arbitration:

- A. The parties agree that arbitration is the method of resolving grievances that have not been satisfactorily resolved pursuant to the Grievance Procedure or Grievance Mediation.
- B. Disputes of arbitrability shall be heard prior to a hearing on the merits. At the time the Department and OLRCB receive the demand for arbitration, if the Agency asserts non-arbitrability, the Union will be notified that the Agency believes that the issue is not arbitrable. Disputes regarding arbitrability shall be heard by any arbitrator selected through the procedures listed in 5(d) of this Article. The arbitrator shall consider the issue of arbitrability separately, prior to a hearing on the merits.
- C. If the parties fail to agree on a joint stipulation of issue(s), the issue shall be framed by the Arbitrator.

- D.** Within ten (10) days after the Director and OLRCB have received the request for arbitration, the Union shall request the FMCS to refer a panel of seven (7) impartial arbitrators. Upon receipt of the FMCS panel the parties will select one (1) of the names on the list. Each party will alternately strike a name from the panel until one (1) remains. The privilege of first strike shall be determined by a coin toss or other mutually agreeable random method. If, before the selection begins, none of the arbitrators are acceptable, a new panel shall be sought.

Section 6:

- A.** The arbitrator shall hear and decide only one (1) grievance appeal in each case unless substantially similar issues are involved. In such circumstances cases shall be consolidated for arbitration upon agreement of the parties.
- B.** The hearing shall not be open to the public or persons not immediately involved unless all parties mutually agree to such. All parties shall have the right, at their own expense, to legal and/or stenographic assistance at this hearing.
- C.** The arbitrator shall not have the power to add to, subtract from or modify the provisions of this Agreement in arriving at a decision on the issue(s) presented and shall confine his/her decision solely to the precise issue(s) submitted for arbitration.
- D.** The arbitrator shall render his/her decision in writing, setting forth his/her opinion and conclusions on the issues submitted within thirty (30) days after the conclusion of the hearing or after the arbitrator receives the parties' briefs, if any, whichever is later. Absent mutual agreement by the parties, the arbitrator shall set the deadline for timely submission of briefs. The decision of the arbitrator shall be binding upon both parties and all employees during the life of this Agreement.
- E.** A statement of the arbitrator's fee and expenses shall accompany the award. The parties shall share the fee and the expenses of the arbitrator equally.
- F.** Appeals of the arbitration awards shall be made in accordance with District of Columbia law.

Section 7 – General:

- A.** No matter shall be entertained as a grievance unless raised within ten (10) days of the occurrence of the event giving rise to the grievance, or within ten (10) days of the employee's knowledge of the occurrence of the event giving rise to the grievance

- B.** Any unsettled grievance not advanced to the next step by the employee, or in the event of a class or group grievance, the Union representative, within the time limit specified in the step, shall be deemed abandoned. If the Department does not respond within the time limit specified at each Step, the employee may invoke the next Step treating the lack of response as a denial of the grievance.
- C.** All time limits must be strictly observed unless the parties mutually agree to extend said time limits. "Days" means calendar days.
- D.** No recording device shall be utilized during any step of this procedure unless direction of the arbitrator for his/her use. No person shall be present at any step for the purpose of recording the discussion. However, nothing in this provision shall prohibit the parties or a party from employing the services of a professional court reporter or stenography service for the purpose of preparing a true and correct transcription of the proceeding.
- E.** The presentation and discussion of grievances shall be conducted at a time and place that will afford a fair and reasonable opportunity for both parties and their witnesses to attend. Such witness(es) shall be present only if necessary for them to present evidence. When discussions and hearings required under this procedure are held during work hours of the participants, they shall be excused with pay for that purpose. An employee scheduled to work shift or weekends will have his/her hours changed to coincide with the time of the hearing.
- F.** The settlement of a grievance prior to arbitration shall not constitute a precedent in the settlement of grievances.
- G.** In appropriate circumstances, Management may utilize the grievance/arbitration procedure by first filing a grievance with the Chairman of the Labor Committee. Such filing and response shall be under the same time limits as a Step 4 grievance.

Section 8 – Expedited Arbitration Procedure:

This procedure shall only apply after the Director or his/her designee makes a final decision. The parties agree that expedited arbitration upon the Union's or Management's written request shall be invoked in all cases of summary removals, summary suspensions, suspensions of thirty (30) days or more and class grievances. In all other disputes the expedited arbitration procedures shall only apply when both parties mutually agree.

Step 1: The employee and/or the Union shall present it (with supporting documentation and agency final decision) to the agency head in writing within fifteen (15) days after receiving the final decision. The agency head shall respond in writing (with a copy to the local Chairman) within fifteen (15) days after receipt of the written grievances.

Step 2: The Union may, by written notice, request expedited arbitration within twenty (20) days after the reply in Step 1 is due or received, whichever is sooner.

Step 3: Within seven (7) days of the Department's receipt of the Union's notice of intent to arbitration request, the moving party shall solicit a panel of seven (7) impartial arbitrators from FMCS. Within seven (7) days after receipt of the list, both parties shall select an arbitrator. Both the Employer and the Union may strike three (3) names from the list using the alternate strike method. A coin toss shall determine the first strike.

Step 4: The arbitration hearing shall be held within thirty (30) days after selection of an arbitrator. Any party unprepared to present its case shall forfeit their issues for arbitration and remedies sought unless the parties mutually agree to extend said time limits. The arbitrator shall issue an award within twenty (20) days of the date set by the arbitrator for filing briefs.

Step 5: All other provisions in the expedited arbitration proceeding will be as specified in Section 6 of this Article.

ARTICLE 11

DISCIPLINE (CORRECTIVE/ADVERSE ACTIONS)

Both parties recognize the exclusive rights of Management to discipline employees for cause, as defined in the DPM. Discipline shall be imposed for cause, as provided in D.C. Code §1-617.51 and defined in Chapter 16 of the District Personnel Manual

Section 1:

For the purpose of this Article, discipline shall include the following:

- A. Corrective Actions:** Written reprimands or suspensions of less than ten (10) days; and
- B. Adverse Actions:** Removal, suspensions for ten (10) days or more; or a reduction in grade.

Section 2:

Employees have the right to contest corrective or adverse actions taken for cause through the negotiated grievance procedure as provided in Article 10. Employees have the right to contest adverse actions taken for cause through the Office of Employee Appeals (OEA) as specified by OEA rules.

- A.** Should the employee select to appeal the action to OEA, such appeal shall be filed in accordance with OEA rules and regulations.

- B.** Should the employee select to grieve under the negotiated grievance procedure, discipline may only be grieved at the next higher level than where the final decision was taken, except in the case of actions taken by the Director.
- D.** Should the employee or Union, in cases of appeals to arbitration, wish to grieve disciplinary action, such grievance/arbitration must be filed within the time limits specified in Article 10 starting with the date after the effective date of the action.

Section 3: If a supervisor has reason to discipline an employee, it shall be done in a manner that will not embarrass the employee before other employees or the public.

Section 4: Employees requested to reply to disciplinary actions will be informed of the right to have a Union representative present.

Section 5: If an employee can reasonably expect discipline to result from an investigatory interview, and a reasonable advance notification of the interview has not been given, at the request of the employee, questioning shall be delayed for no longer than twenty-four (24) hours to give the employee an opportunity to consult with a Union representative.

An employee's Union representative may be present at all investigatory questioning sessions held under this Article, but may not answer questions on behalf of the employee. However, the representative may counsel the employee and may assist the employee in presenting the facts. This section shall not supercede the requirement that employees shall submit reports in writing of all extraordinary occurrences or significant incidents.

Section 6: Prior to commencement of any questioning of unit members, the member shall be informed of:

- A.** The type of investigation being conducted (criminal or administrative). If administrative then the specific reason or type of complaint.
- B.** Whether the member is alleged to be the subject of the investigation if known at the time.
- C.** The name(s) of the complainant(s) unless this information would jeopardize the security of the investigation or the safety of the complainant or witness.
- D.** The name and title of the official who will be doing the questioning and the name and rank of persons that will be present.

Section 7: When management determines that the questioning session is to be recorded, all portions of the session shall be recorded with proper notation as to breaks and off the record discussion began and ended. If a recording device is used, a copy of the tape shall be made available upon written request to the employee or the Union when discipline is proposed, or upon conclusion of the investigation which should normally be concluded within 45 days.

Section 8: Corrective or Adverse Action shall be commenced within a reasonable time after the agency knew or should have known of the act or occurrence allegedly constituting cause.

Section 9:

A. Except in the case of summary discipline, an employee against whom adverse action is proposed shall be entitled to advance written notice of twenty (20) days. The notice shall inform the employee of the causes and the specific reasons for the proposed action; the right to provide a written response within six (6) days of receipt of the advance written notice; the person to whom the written response or any request is to be presented; right to review any material upon which the proposed action is based; in the case of a proposed adverse action only, the right to be represented by an attorney or other representative; the right to an administrative review by a hearing officer appointed by the agency head, as provided in DPM Section 1612, when the proposed action is a removal; and, the right to a written decision.

B. An employee shall be given up to ten (10) hours official time to prepare for his/her defense against any proposed disciplinary action.

C. Disinterested Designee/Hearing Officer shall review the proposed action, receive and review all relevant statements, conduct a hearing if a hearing is requested by the employee and issue a recommendation to the Deciding Official normally within ten (10) days after conducting a hearing or receiving the disciplinary action if a hearing is not requested. The Hearing Officer must be a DS-13 or higher and have no direct or personal knowledge of the matter contained in the disciplinary case, and not be in the chain of command between the proposing and deciding officials.

D. Deciding Official shall issue a final decision after reviewing the recommendation of the Disinterested Designee/Hearing Officer. The deciding official may sustain or reduce the penalty recommended by the Disinterested Designee, remand the matter for further consideration by the Hearing Officer, or dismiss the charge but may not increase the penalty recommended by the Disinterested Designee/Hearing Officer.

Section 10: Summary removal, summary suspension, enforced leave shall only be executed upon the Director's approval. The Union Chairman will be notified within forty-eight (48) hours and give the specific reason for the action.

Section 11: Applicable District Regulations shall govern discharge of probationary, temporary, and term employees.

Section 12: Pending disciplinary action will not preclude an employee from participating in the promotional process. After the eligibility list, register or certification is formed and a final penalty is imposed, the member need not be promoted from the list, register, or certification. If after an eligibility list, register or certification is formed and disciplinary action is proposed, the promotion shall be held in abeyance pending a final disposition. If the disposition is favorable to the employee, the employee shall be promoted forthwith back pay retroactive to the date when the member would have otherwise have been promoted.

Section 13: After discovery of the incident, the investigations shall be conducted in a timely manner and discipline shall be imposed upon the conclusion of any investigation or the gathering of any required documents, consistent with the D.C. Office of Personnel regulations.

Section 14: The Employer agrees that disciplinary action shall not be punitive but based on conduct or performance deficiencies. The selection of the appropriate penalties shall be based on progressive discipline principles consistent within the department. Consideration shall be given to any mitigating or aggravating circumstances that have been determined to exist.

ARTICLE 12

LEAVE

Section 1 – Annual Leave:

- A.** All annual leave requests must be submitted in advance of the time requested. Failure to obtain advance approval for leave may result in having the absence charged to absence without leave (AWOL). Emergency annual leave may be approved by the designated supervisor when an oral request is made. If granted, the employee must submit a written application for leave (SF-17) within twenty-four (24) hours of return to duty.
- B.** Only supervisors designated by the Department will authorize annual leave in the absence of the designated supervisor; emergency annual leave will be approved by the next higher level of supervision.
- C.** All employees requesting a leave period of one (1) week or more will do so in accordance with the following:
 - 1.** Their request will be submitted by the date determined by the Department each year.

2. Supervisors will notify each employee of the disposition of his/her request within one (1) calendar month.
3. If more employees from the same shift than can be spared apply for leave for the same period and management determines that appropriate staff is available to do the work, the employee with the greatest service with the Department will have preference, except as provided below. The employee(s) required to make a new selection will have a preference over employees who did not submit requests if the new selection is resubmitted within 15 days after the disposition of the requests period, provided, the Department has determined that appropriate staff is available to do the work during the period that is proposed.
4. Employees wishing to change their request may do so provided their service can be spared and their new choice does not conflict with leave scheduled for another employee. Since these dates are tentative, the employee will request from his/her supervisor the proposed leave period he/she desires to change as far in advance as possible.
5. During the period of May 1st to October 1st, no employee will be granted more than one (1) leave period of a duration of one (1) week until every employee in the work area has had an opportunity to take a leave period during these months.
6. The granting of leave for the days of Thanksgiving, Christmas and the New Year holidays will be on a rotating basis so that all employees may have an equal opportunity for leave at these times. However, this does not preclude or interfere with the Department's right to determine appropriate staff on holidays to ensure the proper accomplishment of Agency work.
7. Although every effort will be made by supervisors to honor advance requests for leave periods, an advance request is not a guarantee of final approval. The Employer reserves the right to cancel leave previously approved for circumstances such as workload and unforeseen urgent needs. In the event it is necessary to cancel advanced requests, the supervisor will promptly advise the employee concerned. In such cases the employee's circumstances will be given due consideration. Every effort will be made to reschedule the leave period for the employee's convenience.

8. If an employee is transferred within the Department at his/her request or as a result of a promotion, training assignment or voluntary shift change other than the normal shift rotation, the employee may be required to adjust his/her leave scheduled in the unit to which he/she has been transferred. If the move has been a result of a management decision, seniority will be the controlling factor.

Section 2 – Sick Leave:

- A. Supervisors shall approve sick leave of employees who are unable to perform their duties due to illness. Employees assigned to rotating shifts or regular tours of duty shall request unplanned sick leave from the control center no later than two (2) hours prior to the start of their shift. All other employees shall request sick leave as soon as possible prior to the start of their shift on the first day of absence. The employees shall submit the appropriate sick leave request to his/her supervisor upon return to work.
- B. A supervisor may require a doctor's certificate for absences of three (3) days or more. Additionally, those employees who have received "sick certifications" due to potential or actual sick leave abuse shall provide documentation as required by the Department.
- C. Sick leave may be used when an employee receives medical, dental or optical examinations or treatment, or is incapacitated for the performance of duty by sickness, injury, or pregnancy and confinement is required to give care and attendance to a member of his/her immediate family who is afflicted with a contagious disease (as defined by applicable regulations) or would jeopardize the health of others by his/her presence at his/her post of duty because of exposure to contagious disease.
- D. Employees shall submit requests for, or substantiate, sick leave on SF-71, Application for Leave. The Employer will make the SF-71 available for completion and signature by employee(s).
- E. Except in an emergency situation, an employee who will be or is absent due to illness or injury will notify the control center or designated person or unit a minimum of one (1) hour and fifteen (15) minutes prior to the start of the employee's shift, of the inability to report for duty. If an employee is too ill or injured to personally notify the supervisor of his/her absence, notification may be made by a third party.
- F. Employees returning from sick leave will so notify their supervisor or the control center as far in advance of the start as possible. Although employees will not be required to call in to request sick leave each day, in case of an extended illness or more than three (3) days, employees will periodically update their supervisors as to their ability to return to work.

G. Sick leave will be requested in advance for visits to, and/or appointments with doctors, dentists, practitioners, opticians, chiropractors and for the purpose of securing diagnostic examination, treatment and x-rays.

Section 3 – Leave Without Pay: Leave without pay (LWOP) may be granted in accordance with applicable District Personnel Regulations, upon the employee's request.

ARTICLE 13 **TRAINING**

Section 1: The Union shall have membership on any standing Labor-Management body, Board or Committee, and will be entitled to express its views, make recommendations, and otherwise participate, except in selection of participants for training and determining how the budget will be spent.

Section 2: Normally, training which is authorized and approved by the Employer will be conducted during regular working hours (8:00am to 4:00pm) when practical. This does not apply to reading assignments given as a part of training nor does this Article or any aspects of this Agreement preclude an employee from participating in training on his/her time.

Section 3: A record of an employee's training and details to other than regular assignments shall be documented and made a part of the employee's Official Personnel Folders to be used as reference qualifications.

Section 4: Opportunities for employee development through outside educational programs which are related to performance of official duties will be made available in accordance with applicable D.C. laws and regulations.

Section 5: The Employer will provide copies of locally generated training announcements to the Union as they are posted.

Section 6: The Department shall provide appropriate correctional training (currently six (6) weeks) to all newly hired personnel commensurate with their inmate contact upon or prior to their entrance on duty. Periodic in-service training shall be provided consistent with duty assignments and the implementation of new policies and procedures, to provide the skills necessary to perform the duties of their jobs. Periodic in-service training shall be provided for all correctional officers who have completed their probationary period (currently forty (40) hour per year). Employees who are not correctional officers who work in an institutional setting and who have completed their probationary period shall be enrolled in in-service training (currently eight (8) hours per year). Management retains the discretion to determine the amount, frequency and timing of training necessary for the performance of work. Management shall consider individual requests for additional training. Scheduled in-service training may be temporarily

suspended or modified only by the Director or Deputy Director. The Union's Principal Executive Officer will be promptly notified.

Section 7- Firearms Training:

- A. Employees whose duties require the possession and use of firearms shall receive the appropriate range and firearms training along with instructions in safe and effective use of firearms, and refresher training in the Department policies concerning the use of deadly force.
- B. An employee's failure to qualify and/or re-qualify with the semi-automatic firearm shall not be a basis or cause for disciplinary action. Employees that fail to qualify with the semi-automatic will be given the alternative of using the Department issued revolver after successfully completing the range training and qualification requirements for the revolver.

ARTICLE 14
HEALTH AND SAFETY

Section 1 – Employees Working Alone: If employees are required to work in areas beyond the call, observation or periodic check of others where dangerous chemicals, explosives, toxic gases, radiation, laser light, high voltage or rotary machinery area to be handled, the District shall take reasonable and necessary precautions to ensure the health and safety of an employee who might be endangered by working alone.

Section 2 – Medical Service: On-the-Job Injury: The District shall make first-aid kits reasonably available for use in case of on-the-job injuries. If additional treatment appears to be necessary, the District shall arrange immediately for transportation to an appropriate medical facility.

Section 3 – Emergency and Preventive Services:

- A. The Employer agrees to provide emergency diagnosis and treatment, within the competence of the professional staff and the capability of the facilities health services unit, for employees who are injured or become ill during working hours.
- B. The Employer shall determine the preventive services programs necessary to inform employees of health and/or safety issues in the work environment. Programs may include health education, disease screening and physical examinations.

Section 4 – Light Duty:

- A. The District agrees to provide light duty assignments for employees injured on the job to the extent that such light duty is available and justified as follows:

1. To be eligible for light duty, the employee must be certified by the employee's attending physician as temporarily unable to perform the duties of his/her position. The certification must identify the nature and extent of the employee's impairment and the type of light duty he/she is capable of performing, an estimation of the time the employee is likely to be incapacitated and type of activity he/she is incapable of performing. If the period of incapacitation extends beyond the estimated time, the physician shall provide an updated certification stating the additional time the employee is likely to be incapacitated. The Department shall have the option of confirming the diagnosis at the Employer's expense; however, the employee's request for light duty shall be granted during the agency's confirmation process.
2. The employee will be given light duty assignments for which he/she is qualified, initially when available, within his/her own organizational unit. If light duty is not available within the organizational unit, suitable work will be sought elsewhere in the department.
3. Light duty assignments shall not normally extend beyond 45 working days. Extensions shall be at the Employer's option. Employees unable to perform their regularly assigned duties after the expiration of the 45-day period shall make application for disability compensation or exercise such other options as may be available to employees under law, and in accordance with paragraph 5 below.
4. Where there are more requests for light duty than there are light duty assignments and the employees are equally qualified for the assignment, assignments shall be made in the order of earlier date of request.
5. When light duty is not available, an employee must return to full duty or seek compensation or retirement from appropriate channels. In the event compensation or retirement is not approved, the employee may be required to take a fitness for duty examination and may be separated if (1) found unfit to perform or (2) found fit but refuses to report for full duty.

Section 5 – Excessive Temperatures in Buildings: Employees, other than those determined by the Employer to be essential, shall be released from duty or reassigned to other duties of a similar nature at a suitably temperate site because of excessively hot or cold conditions in the building. This determination will be made by the Employer as expeditiously as possible and shall be based upon existing procedures. In lieu of dismissal, the Employer may reassign employees to other duties of similar nature at a

suitably temperate site. Administrative leave will be granted if authorized by the Mayor or his/her designee.

Section 6 – Employee Health Services: Employees covered by this Agreement shall have access to employee health services provided by the Employer consistent with the Comprehensive Merit Personnel Act (D.C. Code Section 1-621.7).

Section 7 – Maintenance of Health Records: Medical records of employees shall be maintained in accordance with the provisions of Chapter 31 of the D.C. Government regulations that maintain confidentiality of those records. Medical records shall not be disclosed to anyone except in compliance with applicable rules relating to disclosure of information.

Section 8: The Employer agrees to follow Mayor's Order 87-95 or other applicable Order regarding ergonomic policy for use of video display terminals.

Section 9: The Employer agrees to provide relief to correctional staff within a reasonable period of time for employees in areas where toilet facilities are not readily accessible.

Section 10: The Union may make recommendations to the Facility Administrator and the Director regarding detection methods used to prevent the introduction of contraband into the facilities.

Section 11 - Working Conditions:

- A. The Employer will make every effort to provide and maintain safe working conditions. The Union will cooperate in these efforts by encouraging its members to work in a safe manner and to obey established safety practices and regulations.
- B. Matters involving safety and health will be governed by the D.C. Occupational Safety and Health Plan in accordance with Subchapter XXI of the Comprehensive Merit Personnel Act (1980, as amended, D.C. Code section 1-621.1 *et seq.*).

Section 12 - Corrective Actions:

- A. If an employee observes a condition that he or she, believes to be unsafe, the employee shall report the condition to the immediate supervisor.
- B. If the supervisor determines that a condition constitutes an immediate hazard to the health and safety of the employee, the supervisor shall take immediate precautions to protect the employee.

- C. If the supervisor determines that a condition does not constitute an immediate hazard to the health and safety of the employee and the employee disagrees, the matter may be immediately referred by the employee to the next level supervisor or designee. The supervisor or designee shall make an immediate determination as to whether the condition constitutes an immediate hazard to the health and safety of the employee. An employee will not be required to operate unsafe equipment or work in conditions reported as unsafe or hazardous until the next level supervisor or designee has determined that the conditions or equipment are safe.
- D. Matters related to alleged unsafe working areas or equipment may be brought to the attention of the safety committee.
- E. Employees shall not be required to operate unsafe equipment that has been so determined by the Employer or the D. C. Risk Manager.

Section 13 - Safety Devices and Equipment: Protective devices and protective equipment as determined appropriate by the Employer or other competent authority shall be provided by the Department and shall be used by the employees.

Section 14 - Safety Training:

- A. The Department shall provide safety training to employees as necessary for performance of their job. Issues involving safety training may be presented to the Safety Committee.
- B. The Department shall make CPR training available.

Section 15 - Safety Committees:

- A. The Department agrees that the Union shall have two (2) members, one (1) correctional and one (1) non-correctional, on the Department Safety Committee. Committee meetings will be held during working hours without loss of pay or leave to employees.
- B. One (1) Union and one (1) Department representative shall each serve as co-chairpersons of the Committee.
- C. The Safety Committee shall:
 - 1. Meet on a monthly basis, unless mutually agreed otherwise. Prior to regularly scheduled monthly meetings, labor and management must submit their respective agendas to each other at least five (5) days in advance;
 - 2. Conduct safety surveys, consider training needs, and make recommendations to the agency/department head;

3. Consult with and advise department/agency heads; and,
 4. Receive appropriate health and safety training.
- D.** Final reports or responses from agency/department heads (or designees) shall be provided to the Safety Committee within a reasonable period of time on safety matters initiated by the Committee.

Section 16: The Employer agrees to provide the Union safety and health committee members with a copy of all current D.C. Safety Officers, or Departmental Risk Managers, and revisions as they occur.

Section 17: The Union and the Department will make every effort to prevent accidents of any kind. Should accidents occur, however, a prime consideration will be the welfare of injured employees consistent with medical protocol.

Section 18: The Union shall have membership on the Risk Assessment Committee.

Section 19: Transportation service shall be provided to transport injured employees on the compound for appropriate medical services. EMS services will be made available if determined appropriate by medical staff.

Section 20: The supervisor shall provide a complete copy of Form CA-16 to the Agency Human Resources Department for deposit into the employee's human resource file. The employee shall have access to this document as they do for any other human resource file.

ARTICLE 15

REDUCTION-IN-FORCE

Section 1: The Employer agrees to notify the Union of proposed reduction-in-force (RIF) actions that may adversely affect unit employees. The Employer will consider the Union's views regarding minimizing the number of adversely affected unit employees.

Section 2: Following the guidelines contained in the District of Columbia Personnel Manual, the Department agrees to minimize the effect on bargaining unit employees to the extent practicable. In the event of a RIF the procedures outlined in the laws and regulations of the District of Columbia will be utilized.

ARTICLE 16
UNIFORMS

Section 1: The Employer shall provide the following items of uniforms to unit employees as specified:

A. Correctional Officer - Male

Blouse, blue	1 each
Police-style coat, blue	1 each
Trousers, blue (winter)	4 pairs
Trousers, blue (Summer)	4 pairs
Cap, winter (opt.)	1 each
Cap, summer (opt.)	1 each
Shirt, gray, short sleeve	6 each
Shirt, gray, long sleeve	6 each
Necktie, black	1 each
Whistle, chrome	1 each
Raincoat	1 each
Badge, large, silver	1 each
Badge, small, silver	1 each

B. Correctional Officer - Female

Blouse, blue	1 each
Overcoat, blue	1 each
Trousers, blue (winter)	4 pairs
Trousers, blue (summer)	4 pairs
Cap, winter (opt.)	1 each
Cap, summer (opt.)	1 each
Shirt, gray, short sleeve	6 each
Shirt, gray, long sleeve	6 each
Necktie, black	1 each
Whistle, chrome	1 each
Raincoat	1 each
Badge, large, silver	1 each
Badge, small, silver	1 each

If a Correctional Officer is pregnant and on active duty, the Employer shall make available suitable uniform clothing, upon the employee's request.

C. Khaki Uniforms (Wage employees and other employees assigned to jobs requiring these uniforms):

Trousers, Khaki	6 pairs
Shirt, Khaki, long sleeve	6 each
Shirt, Khaki, short sleeve	6 each
Raincoat	1 each
Coveralls, Khaki	2 pairs
Shoes, Safety, steel toe	1 pair
Badge, large, gold	1 each
Badge, small, gold	1 each

ARTICLE 17

DETAILS, TEMPORARY PROMOTIONS AND PAY IN HIGHER GRADE POSITIONS

Section 1: Details or temporary promotions shall be made in accordance with appropriate provisions of the District Personnel Manual.

Section 2 - Acting Pay: An employee detailed or assigned to a higher grade position for more than ninety (90) consecutive days shall receive the higher rate of pay beginning the first full pay period following the ninety (90) day period. If Management decides to reassign an employee to a higher-grade position after the employee returns from the approved leave or disability compensation, such absences will not be considered a break in the consecutive day requirement.

Section 3: Management will ensure that an employee assigned or detailed to a higher grade position is not arbitrarily removed from detail and then reinstated to the detail in order to avoid Acting Pay in accordance with Section 2 above.

Section 4: Details or assignments to a higher-grade position shall not be used as a pre-selection device. For the purpose of the preceding term "pre-selection device" refers to recurring patterns of selecting individuals for promotion that are not qualified but assigned or detailed to the higher-grade position as provided in the Article.

Section 5: Competitive placement procedures will be utilized for all higher grade details extending beyond 120 days to established positions and 240 days to unestablished positions.

Section 6: Management will generate the appropriate paper work (Form 52) for employees detailed/assigned to another position extending beyond 90 days.

Section 7: Management will notify the Union of all bargaining unit employees detailed or assigned to supervisory/managerial positions so that the Union can remove that employee from its roles during the period he/she is detailed or assigned to the supervisory position.

Section 8: Bargaining unit employees shall be given the first opportunity to be assigned to details and temporary promotions into bargaining unit positions provided that they are qualified and available to perform the duties.

ARTICLE 18

DISTRIBUTION OF OVERTIME AND TOUR OF DUTY

Section 1: Management retains the unfettered right to determine necessary job requirements for assignments and to determine the employees who are eligible to work the assignments.

Section 2: Where management determines that employees are equally capable to perform overtime assignments, overtime will be offered to employees on a volunteer basis and distributed equitably among those employees.

Section 3 – Overtime:

A. Voluntary Overtime

A list shall be posted for employees to sign up for overtime. The employee must be present to sign his/her own name on the list. Correctional Officers, Grade 6 through 9 will be selected for overtime in descending order from the voluntary sign up list. Management will not arbitrarily deny employees overtime. If an employee's name is skipped over, the supervisor must justify to the employee and in writing the reason for denying that employee to work overtime.

B. Mandatory Overtime (Draft)

Based on operational demand and/or emergencies when it becomes necessary for management to order mandatory overtime, prior to invoking a draft, management will first attempt to locate volunteers from other facilities or employees in an off duty status. If there is still a need, selections will be made among all employees (including those assigned to non-bid special skills post) in alphabetical order regardless of rank (Grades 6 through 9). Under no circumstances will an employee be forced to work mandatory overtime for two or more consecutive days. Nor will an employee be required to work more than eight (8) hours of overtime per day unless unforeseen emergencies arise (inclement weather, disturbances, interstate transports, etc.). Employees shall be paid at the appropriate overtime rate for mandatory overtime hours worked. An employee may be paid straight

time or compensatory time for ordered mandatory overtime if mutually agreed to by the parties in advance.

- C. Records of employees voluntary and mandatory overtime performed shall be maintained by the Employer and made available to the Union upon request.
- D. The provision of this Article shall apply to uniformed employees who are required to work overtime.

Section 4 – Tours of Duty/Shift Change: Changes in shift will be distributed and rotated equitably among qualified employees on an annual basis in accordance with Department Order 3020.3.

- A. The Union's Chairman or designee will have ex-Officio membership as an observer on any joint labor-management committee regarding applicable annual shift change regulations. Any newly created post or modification of an existing post (days off, duty hours, former bid post which are converted to non-bid special skill post, etc.) will be submitted to the Work Force Utilization Committee prior to implementation.
- B. Employees will not be arbitrarily removed or reassigned from a post they obtained through the Master Roster bid process. When management determines a need to remove or reassign an employee from a post assignment they shall notify the employee in the Union of the reason for the reassignment and provide any supporting documentation. Notice shall include the specific allegation that precipitated the proposed reassignment, including performance deficiencies or the specific reason(s) for the manager's conclusion that a reassignment is in the best interest of the shift, facility or Agency. If the proposed reassignment is based on an allegation of employee misconduct, the employee shall be given an opportunity to rebut the allegations of misconduct, prior to a permanent reassignment and be allowed to offer alternatives to permanent reassignment. If management determines that a reassignment for the remainder of post term is necessary, management shall provide the employee with an written explanation of why the reassignment is necessary to meet the needs of the Agency
- C. The same provisions of this Article shall apply for all non-uniformed employees who are required to perform rotating shift work.
- D. A record of employees shift change and assigned days off will be submitted to the Union for review.

Section 5: To be eligible for a post overtime assignment employees must be able to perform the duties of the post as set forth in the post orders.

ARTICLE 19
MERIT STAFFING/PROMOTIONS

Section 1: Merit staffing and promotions procedures shall be implemented in accordance with the applicable provisions of the DPM as implemented in the DCOP Merit Staffing Plan and this Article.

Section 2: The Employer will administer the following practices and principles:

- A.** The Employer will announce all job vacancies for at least ten (10) business days. A copy of the vacancy announcements will be provided to the Union by Management via Fax.
- B.** Based on established DCOP procedures and qualifications, applicants will be evaluated and list qualified or unqualified (if so evaluated). Applicants will be referred to the selecting official with all of the mandatory hiring preferences applied as required by DCOP rules and regulations.
- C.** The Employer will notify all applicants of the outcome of their applications for the position.
- D.** Copies of the DCOP regulations describing the procedural aspects of the Merit Staffing/Promotion Plan will be made available at each facility to all employees and a copy provided to the Union. Aspects of the merit staffing/promotion plan will be made to the Union's Chairman.

Section 3 – Area Consideration: To the extent not in violation of Equal Employment Opportunity laws and regulations and the Department's affirmative action plan, the Area of Consideration to fill vacancies in the bargaining unit shall be the DCDC; provided that the official requesting the personnel action certifies to the DCOP that an adequate number of qualified candidates is expected to result from such limited Area of Consideration. An adequate number shall be no less than five (5).

Section 4: Outside candidates competing for departmental promotional opportunities must be equally or better qualified than internal applicants before they will be appointed or promoted.

Section 5: The Union will have ex-officio membership as an observer on merit staffing panels for non-supervisory positions within the bargaining unit. The Union representative must be the same grade or higher than the position being filled. The Chairman of the Union is excluded from this restriction. The Union representative shall not participate in management's deliberations or the selection of candidates.

Section 6: For non-correctional vacancies, if one (1) eligible candidate who is certified for consideration is interviewed, then all such candidates will be interviewed.

Section 7: If the Agency returns a certification of eligible candidates for bargaining unit positions without selection the Agency shall provide the justification for return of the certificate to DCOP. The Agency shall also provide the Union the justification.

Section 8: No employee who is certified on the selection certificate can file a grievance for non-selection unless there has been a violation of the DPM.

Section 9: Upon a determination that a procedural violation occurred and a candidate was erroneously appointed or promoted, Management will initiate the remedial action in accordance with the DPM, Chapter 8, within 45 days.

ARTICLE 20

POSITION DESCRIPTIONS

Section 1: Each employee will be supplied with a copy of his/ her official position description by the Office of Personnel upon entry to duty or change in position description. Position descriptions will be furnished to the Union. Other requests for position descriptions will be made directly to the Director of the Office of Personnel.

Section 2: The clause found in job descriptions "performs other duties as assigned" shall be construed to mean the employee may be assigned to other duties that are nominally related to regular assignments. The Employer recognizes that job assignments should be commensurate with position descriptions. The Union recognizes that at times the Employer must deviate from this policy. When such deviation is necessary, the Employer will make every effort to assign employees whose normal duties and pay levels are most nearly associated with the job to be assigned.

Section 3: Position classification appeals are not subject to the negotiated grievance procedure. Such classification appeals filed with the Office of Employee Appeals (OEA) before October 22, 1998 shall be processed in accordance with applicable law and OEA Rules. Copies of procedures to be followed in filing appeals after October 22, 1998 will be made available to employees and Union representatives upon request to the Office of Personnel.

Section 4: An employee may request a review of his/her position classification. Such request will be submitted orally to the appropriate supervisor who will meet with the employee (and representative if any) to discuss the matter and the circumstances leading up to the request for review. If the matter is not resolved, the employee may file a request for review through the appropriate servicing personnel classification unit.

ARTICLE 21
PERSONNEL FILES

Section 1: An employee shall have the right to view his Official Personnel file and upon request, inspect or copy any documents appearing in his/her folder, consistent with release of official information as proscribed in the Comprehensive Merit Personnel Act.

Section 2: The rights of employees pertaining to their Official Personnel Folder as referenced above shall extend to apply to employees information and/or training folders maintained by the Employer on the employee.

Section 3: Upon request, the Employer shall provide the employee a copy of final reports and internal investigations related to the employee's performance, inmate complaints against employees and other work related matters concerning the employee.

Section 4: An employee's personnel records may be disclosed to his/her representative upon written authorization from the employee. The written authorization shall specify the documents and/or records to be disclosed or the degree of access permitted by the employee.

Section 5: The employer will make a reasonable effort to ensure that inmates do not have access to employees' files and records.

ARTICLE 22
TRANSFERS AND INTER-INSTITUTIONAL ROTATIONS

Section 1: It is recognized that the Employer has the right to transfer or reassign employees whenever the interest of the Department so requires, but transfers or reassignments shall not be used as a form of reprisal.

Section 2: After fifteen (15) years of service with the Department, an employee shall be given priority placement consideration to the facility of his/her choice. Request for reassignments pursuant to this section will not be unreasonably denied. Employee's preference as to shift and days off shall be applied based on availability.

ARTICLE 23
RETIREMENT COUNSELING

The Employer will provide counseling to employees who are of retirement age. This counseling will include information on voluntary deductions, benefits, and insurance.

ARTICLE 24
DISTRIBUTION OF HEALTH BENEFIT BROCHURES

The Employer agrees to make available to all employees upon entrance on duty and during open enrollment season, copies of the health benefit plan brochures under the applicable program.

ARTICLE 25
PERFORMANCE COUNSELING

Section 1: If an employee is to be denied his/her periodic step increase he/she shall be so notified in advance in writing.

Section 2: Such notification shall include:

- A. An explanation of each aspect of performance in which the employee's services fall below a satisfactory level and how this renders his/her performance on the job as a whole below a satisfactory level; and,
- B. A statement of the satisfactory level of performance on each of those work aspects; and
- C. Advice as to what the employee must do to bring his/her performance up to the satisfactory level.

Section 3:

Notification as stipulated above shall be made in advance of denial of the periodic step increase and the employee shall be given at least sixty (60) days to bring such performance up to a satisfactory level.

ARTICLE 26
PERFORMANCE RATINGS

Section 1: The parties agree that until a new performance plan is developed, as required by Section 1-615.1 of the D.C. Code (1981 ed.) the rating plan currently in place will continue in effect.

Section 2: An employee may elect to appeal the Impartial Review Board Committee's decision to the Office of Employee Appeals (OEA) in the manner specified in OEA's regulations or, if applicable, grieve the decision under the provisions of Article 10 of this Agreement.

ARTICLE 27
NO STRIKE OR LOCKOUT

Section 1: Under the provisions of D.C. Code Section 1-618.5 it is unlawful to participate in, authorize or ratify a strike.

Section 2: The term “strike” as used herein means a concerted refusal to perform duties or any unauthorized concerted work stoppage or slowdown and shall be defined in accordance with D.C. Code Section 1-618.5.

Section 3: No lockout of employees shall be instituted by the Employer during the term of this Agreement except that the Department in a strike situation retains the right to close down any facilities to provide for the safety of employees, property or the public.

Section 4: In the event of a strike as defined by this Article and upon receipt of notice from the Employer of any strike, within eight (8) hours the Union shall publicly disavow the action by posting notices and issuing a news release to the media stating that the strike is unauthorized. Notwithstanding the acceptance of the existence of any strike, the Union will use every reasonable effort in cooperation with the Employer to terminate the strike.

Section 5: It is recognized that any employee, who participates in or initiates a strike as defined herein may be, subject to disciplinary action.

ARTICLE 28
PROTECTED DISCLOSURE

Section 1: Pursuant to D.C. Code § 1-616.11 *et seq.*, employees shall be free to make a protected disclosure of information, that is not specifically prohibited by statute, by reporting gross mismanagement; gross misuse or waste of public resources or funds; abuse of authority in connection with the administration of a public program or the execution of a public contract; a violation of law, rule or regulation or of a term of contract between the District government and a District government contractor which is not of merely technical or minimal nature; or, a substantial and specific danger to the public health and safety. Said disclosures shall be made to any of the official governmental entities prescribed by law.

Section 2: Pursuant to D.C. Code § 1-616.11 *et seq.*, the Employer’s representatives shall not threaten to take or take a prohibited personnel action or otherwise retaliate against an employee because of the employee’s protected disclosure or because of an employee’s refusal to comply with an illegal order. As defined by the D.C. Code § 1-616.11, prohibited personnel actions include recommended, threatened, or actual termination, demotion, suspension, or reprimand; involuntary transfer, reassignment, or detail; referral for psychiatric or psychological counseling; failure to promote or hire or

take other favorable personnel action; or retaliating in any other manner against an employee.

ARTICLE 29
DISTRIBUTION

The Employer agrees to have printed 1000 copies of the Agreement. The Union will be responsible for all copies over 1000. The parties shall jointly explore the best value for printing consistent with procurement laws.

ARTICLE 30
LIABILITY

Section 1: The Employer shall provide, at its cost, legal representation to any employee who is a named defendant in a civil action arising out of acts committed by the employee within the scope of his/her employment, provided however that such representation is requested by the employee no more than five (5) calendar days after the service of process and that such representation would not pose a conflict of interest or potential conflict of interest.

Section 2: Representation will be provided through the Office of the Corporation Counsel. The decision of the Corporation Counsel on whether to represent an employee shall be final. Should the Corporation Counsel decline to represent the employee, the employee may be represented by any private attorney of his/her choice. The Employer will reimburse the employee for reasonable attorney fees (as determined by the Court) incurred in the employee's defense of the action.

Section 3: Representation will generally not be provided where the employee has been found to have engaged in willful misconduct that has resulted in disciplinary action against him/her as a result of his/her conduct with respect to the matter in question.

ARTICLE 31
DRUG AND ALCOHOL SCREENING

Section 1: The Department agrees to assist career employees who voluntarily concede substance abuse dependency prior to either testing positive for illicit drugs or alcohol test. The employee will be required to enroll and complete a certified substance abuse program. The employee will be subjected to a one-year probationary period and will submit to drug and alcohol testing as frequently as the employer deems appropriate. The employee will be subjected to summary removal for any positive drug or alcohol testing results during this probationary period.

Section 2: A career employee testing positive for drug or alcohol use (in lieu of termination) may be allowed to enroll in a certified substance abuse program and the employee shall be subjected to an eighteen month probationary period. The employee will submit to drug and alcohol testing as frequently as the employer deems appropriate. In making the determination that rehabilitation (in lieu of termination) is appropriate management will consider the employee's performance record, the circumstances for the drug or alcohol use on a case by case basis, and any other objective evaluation factors. Management will retain the right to render the final decision.

ARTICLE 32 **WASH-UP TIME**

Wash-up time of 15 minutes prior to the end of the shift will be made available to buildings and trades employees.

ARTICLE 33 **CONTRACTING OUT**

Section 1: Prior to contracting out which deviates from the Department's past practices, the Employer agrees to consider existing resources, to consult with the Union and to consider the views, recommendations or suggestions offered by the Union.

Section 2: The Department agrees to notify the Union of any contracting out actions which will displace any bargaining unit employee(s). The Employer further agrees to minimize displacement of bargaining unit employees through realignment and retraining consistent with applicable laws and regulations.

ARTICLE 34 **INCENTIVE AWARDS AND PERSONNEL ENTERPRISES COMMITTEE**

The Union shall have membership on any standing Incentive Awards and Personnel Enterprises Committee (Committee) and will be entitled to express its views, make recommendations, and otherwise participate. The Committee shall address incentive awards to the extent not inconsistent with management rights.

ARTICLE 35 **SAVINGS CLAUSE**

In the event that any provision of this Agreement shall at any time be declared invalid by any court of competent jurisdiction, such decision shall not invalidate the entire Agreement, it being the expressed intention of the parties hereto that all other provisions not declared invalid shall remain in full force and effect.

ARTICLE 36
DURATION AND FINALITY OF AGREEMENT

Section 1: This Agreement shall remain in full force and effect until September 30, 2005. The Agreement will become effective upon the Mayor's approval subject to the provisions of D.C. Code § 617.15 (2001 ed.) and ratification by the Union. Additionally, if submitted during fiscal year 2001, the Agreement shall not become effective absent approval by the District of Columbia Financial Responsibility and Management Assistance Authority. If disapproved because certain provisions are asserted to be contrary to applicable law of if not ratified by the Union, the parties shall meet within thirty (30) days to negotiate a legally constituted replacement provision or the offensive provision shall be deleted.

Section 2: The parties acknowledge that this contract represents the complete Agreement arrived at as a result of negotiations during which both had the unlimited right and opportunity to make demands and proposals with respect to any negotiable subject or matter. The Employer and the Union agree to waive the right to negotiate with respect to any subject or matter referred to or covered or not specifically referred to in this Agreement for the duration of this contract, unless by mutual consent or as provided in this Agreement.

Section 3: In the event that a state of civil emergency is declared by the Mayor (civil disorders, natural disasters, etc.) the provisions of this Agreement may be suspended by the Mayor during the time of the emergency.

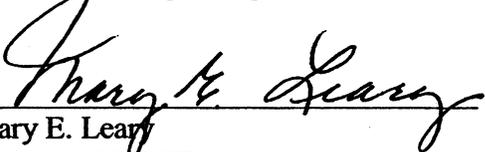
Section 4: This Agreement shall remain in effect until September 30, 2005, in accordance with Section A of this article, and will be automatically renewed for one (1) year periods unless either party gives written notice of its intention to terminate or modify the Agreement no later than 120 days prior to the expiration of the agreement.

Section 5: All terms and conditions of employment not covered by the terms of this Agreement shall continue to be subject to the Employer's direction and control provided, however, that if the Employer desires to institute a major change that has a significant impact upon the terms(s) or condition(s) of employment of the entire bargaining unit or any group of bargaining unit employees, the Employer shall provide the Union with advance notice and upon written request of the Union, the parties shall negotiate the impact of such change.

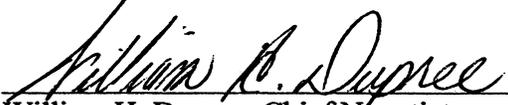
Section 6: All citations to the D.C. Code within this Agreement are to the 1981 Edition, unless stated otherwise.

On this 17th day of September 2002 and in witness to this Collective Bargaining Agreement between the Fraternal Order of Police/Department of Corrections Labor Committee and the District of Columbia Department of Corrections, the parties hereto set their signatures.

**For the Department of Corrections
and the Office of Labor Relations and
Collective Bargaining:**

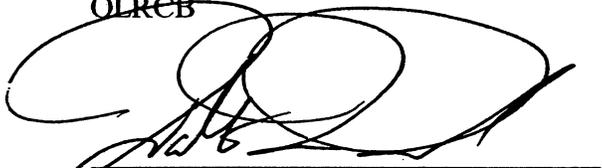

Mary E. Leary
Director, OLR CB

**For the Fraternal Order of Police/
Department of Corrections
Labor Committee:**

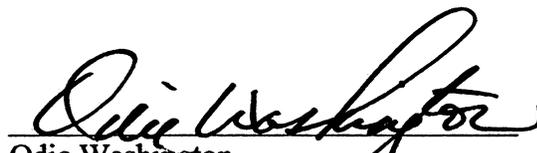

William H. Dupree, Chief Negotiator
FOP/DOC Labor Committee

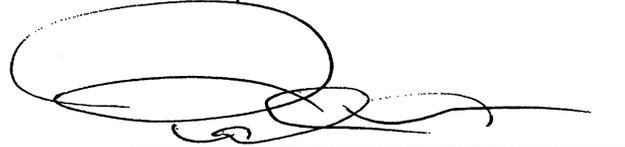

Michael A. Jacobs, Esq.
Supervisory Labor Relations Specialist
OLRCB


Sergeant Jerry Davis
CDF
Member, FOP/DOC Labor Committee

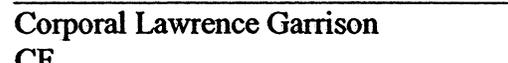

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Robert Hitt
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Member, FOP/DOC Labor Committee


Odie Washington
Director, DOC


Pamela Chase, Chairperson
CDF
FOP/DOC Labor Committee


James L. Anthony
Deputy Director, Administration, DOC


Corporal Lawrence Garrison
CF
Member, FOP/DOC Labor Committee


Marvin L. Brown
Deputy Director for Operations, DOC


Corporal Annette Bishop
CF
Member, FOP/DOC Labor Committee

Joan E. Murphy

Joan E. Murphy
Special Projects Officer, DOC

Paulette S. Hutchings

Paulette S. Hutchings
Health Services Program Specialist, DOC

Stanley M. Waldren

Stanley M. Waldren
Supervisory Correctional Officer, DOC

APPROVAL

The Collective Bargaining Agreement between the District of Columbia Department of Corrections and the Fraternal Order of Police/Department of Corrections Labor Committee, dated September 17, 2002, has been reviewed in accordance with Section 1715(a) of the District of Columbia Comprehensive Merit Personnel Act of 1978 (Section 1-617.15(a), D.C. Official Code, 2001 Edition) and is hereby approved this 19th day of December, 2002

Anthony H. Williams
Anthony H. Williams
Mayor