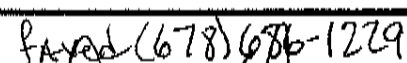


BP-S176.037 <b>FORMAL GRIEVANCE FORM</b> CDFRM MAY 1994 U.S. DEPARTMENT OF JUSTICE		<b>FEDERAL BUREAU OF PRISONS</b>	
1. Grievant(s) Local 501		2. Duty Station: FDC MIAMI	
3. Representative of Grievance(s) AFGE, Council of Prison Locals		4. Informal resolution attempted with Cpt D. Arce, AW, S. Million, AW E. Perez, & L. McGrew, Warden	
5. Federal Prison system Directive, Executive Order, Statute violation: 5 USC, FLSA, 29 USC, not limiting, Federal Employees Pay Act of 1945 (FEPA or the Back Pay Act), 5 CFR Sec 551.401 (a), Sec 551.402, Sec 551.412, Master Agreement, not limiting, Preamble, Article 6, section (b)(2)(6), Article 18, section (a), P.S. 3000.02, Section 610.1, Operations Memorandum 214-95, Nationwide Settlement Agreement of August 2000, Settlement Agreement June 1, 2010, and any other applicable laws, rules and regulations			
6. In what way were each of the above violated? Be specific.  This grievance applies to past, current and future employees of Federal Bureau of Prisons, Federal Detention Center in Miami, Florida. It has and continues to be the practice of management at FDC Miami, specifically, management officials listed herein (block 4) to require employees to perform pre and post shift work at the benefit of the agency without appropriate compensation. This is not limited to exchanging equipment, (e.g., keys, radios, batteries, etc.) and performing other work necessary and mandated by mgt in shift exchanges. FDC Miami is one of the largest stand alone administrative high rise facilities in the U.S. consisting of 13 floors, housing in excess of 1600 inmates. Staff are expected clear and metal detection device and perform pre/post shift work - which varies between fifteen (15) minutes and thirty (30) minutes per day - in order to fulfill their duties. Staff are being held up by the metal detector, Control Center, by limited elevators usage and by electronically-controlled doors in the facility and, also, because of work mandated by management during shift change - in order to effectuate a proper relief. A major problem that continues, on evening watch and morning watch is staff duty hours start/end at the same time (10:00 p.m.). M/W employees frequently have to arrive early to work, with aforethought knowledge of mgt, in an attempt to relieve the E/W staff before the end of their shift. Often times this is unsuccessful which results in E/W shift being relieved late. It is no way, these employees can be expected to arrive and/or depart work at the end or start of their shift at 10:00 p.m., clear a metal detector and be expected to perform pre and post shift activities at the same time. This is suffered and permitted overtime which is proscribed by FLSA and Federal Employees Pay Act of 1945 as specified in block #5. Mgt's own Operations Memorandum 214-95 mandated all CEO/Wardens - back in 1995 - to develop a Shift and Starting Stopping plan at each facility, to assure employees were not performing pre and post shift activities. Former Warden Joe Knowles never implemented the plan during his tenure. It wasn't until former Warden Patrick Whalen tenure, til a plan was devised, however, it was never implemented until years later by former Warden Monica Wetzel. Authorization and approval came by the direction of the former Southeast Regional Director R.L. Matthews. The shift overlap (morning shift) remained in effect for years until former Warden Loren Grayer cease it for budgetary reasons. Local 501 filed a grievance as a result and achieved a back pay settlement in June 2010. The only issue that remained unresolved was for mgt to reinstall the fifteen (15) minutes shift overlap on the morning watch shift. Operation Memo 214-95 provided details how to prevent pre and post shift work (See example schedule on Operation 214-95). It was later incorporated into Bureau Policy, P.S.3000.02, Section 610.1, Shift Starting and Stopping Times.  Even though a monetary settlement was agreed by the parties in June 2010 - to resolve the previous portal case (FMCS 07-01788), mgt failed to fix the single remaining issue of reinstalling the fifteen (15) minutes shift overlap back on the Correctional Services' roster for the morning watch shift per the settlement instructions. After several meetings, it is a fact, mgt is still willfully requiring its employees to perform this pre and post shift activities at the benefit of the agency. AFGE will request enhanced attorneys' fees and liquidated damages, not limiting, if this issue goes unresolved. It is our belief, Mgt is continuing to turn a blind eye to these Portal cases in the BOP, since the national 120 million national settlement. In our meetings, the Warden and each mgt official were told of these numerous Portals' loses by the Bureau since national settlement. I, even, informed the Warden that I was instrumental with the SER Director, in stopping the current Warden of MDC Guaynabo, PR from eliminating the fifteen (15) minutes overtime - preventing another Portal case. Other facilities named in our discussion with Warden McGrew of management loses/recent settlement are not limited to FCC Beaumont, Greenville, Terminal Island, Jesup, Atwater, MCC Chicago, Leavenworth, and MCC New York, etc). <b>If there are any issues that need clarification, please notify the Union Eric Young, immediately at 305-338-7590.</b>			
7. Date(s) of violation(s) <b>November 30, 2010 and continuing violation</b>			
8. Request remedy (i.e., what you want done) Order morning watch posts/shifts be overlapped fifteen (15) minutes with appropriate evening posts/shifts as illustrated in Operation 214-95; Order a make whole remedy for all employees affected; Award liquidated damages; Award enhanced Attorneys' fees; Order management officials for training; Order management to report their dereliction of duty to the respective Congressman/woman in the facility's respective district; and, any other actions deemed appropriate by the Arbitrator (a third party).			
9. Person with whom filed R. E. Holt		10. Title Southeast Regional Director	
11. Signature of recipient 		12. Date signed 12-28-10	
I hereby certify that efforts at informal resolution have been unsuccessful.			
13. Signature of Grievant(s) (On behalf of Grievants) E.O. Young		14. Signature of Representative E.O. Young	