

Supreme Court of Pennsylvania

Court of Common Pleas
Civil Cover Sheet



County

Tue, Jul 2, 2019 11:10 AM

2019-SU-001997

FILED
2019 JUL 2 AM 10:55
CLERK YORK DA

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- ☐ Complaint ☐ Writ of Summons ☒ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:

York County Prison

Lead Defendant's Name:

Teamsters Local Union No. 776

Are money damages requested? ☐ Yes ☒ No

Dollar Amount Requested: ☐ within arbitration limits
(check one) ☐ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Cory A. Iannacone

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☐ Other:

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other

☐ Employment Dispute: Discrimination
☐ Employment Dispute: Other

☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other

☐ Zoning Board

☒ Other: Appeal Labor Arbitration Award

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other:

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YORK COUNTY PROthonotary
2019 JUL -2 AM 10:56
JUDICIAL CENTER YORK PA

YORK COUNTY PRISON,
Petitioner,

: IN THE COURT OF COMMON PLEAS
: OF YORK COUNTY,
: PENNSYLVANIA

:
: CIVIL DIVISION – EQUITY AND LAW

:
: NO.

v.

TEAMSTERS LOCAL UNION NO. 776
Respondent.

Tue, Jul 2, 2019 11:10 AM

2019-SU-001997

**YORK COUNTY PRISON'S PETITION TO
MODIFY OR VACATE ARBITRATION AWARD**

NOW COMES, the York County Prison ("County" or "Prison"), by and through its counsel, PILLAR+AUGHT, and files the instant Petition ("Petition") to Modify or Vacate the June 9, 2019 Arbitration Award ("Award") issued by Arbitrator John M. Skonier, Esq. ("Arbitrator") in connection with Grievance Nos. 64851 and 64853 filed by the Teamsters Local Union 776 ("Teamsters" or "Union") on behalf of Grievants, Marcial Baez ("Baez") and Graig Phillips ("Phillips" and collectively with Baez, "Grievants"). In support of the instant Petition, the County avers the following:

Introduction

1. Both Grievants, Marcial Baez and Graig Phillips, were terminated from their employment as correctional officers at the Prison in connection with an investigation into an incident where they taunted and antagonized an inmate with mental issues who had just been

placed on SP2—suicide precaution—causing the inmate to become so worked up that it lead to a use of force incident. Critical for the instant Petition, the Arbitrator made the factual finding that Grievants were dishonest; however, went on to order reinstatement of their employment, despite the fact that the Parties' collective bargaining agreement specifically provides for immediate termination in cases of proven dishonesty. Because the Arbitrator's Award failed to follow the negotiated and agreed upon terms of the Parties' collective bargaining agreement—requiring immediate termination in cases of proven dishonesty—the Award cannot say to draw its essence from the collective bargaining agreement. Rather, the Arbitrator has re-written the terms of the Parties' collective bargaining agreement, which is specifically prohibited under Pennsylvania law. On these grounds, as explained in greater detail below, the County petitions this Honorable Court, requesting that it modify or vacate the Award in order to conform with the Parties' collective bargaining agreement and more importantly, Pennsylvania law.

Jurisdiction

2. This Honorable Court has jurisdiction over this Petition pursuant to Sections 933(b), 7302, 7314, 7315 of the Pennsylvania Judicial Code, 42 Pa.C.S.A. §§101 et seq. 42 Pa.C.S.A. §933(b), §7302, §7314, §7315.

Parties

3. Petitioner, the County, is a third class county located in the Commonwealth of Pennsylvania, with a county seat of York.

4. The County is a public employer and is covered by the Public Employee Relations Act ("Act 195"), 43 P.S. §§1101.101 et seq.

5. The Teamsters is the designated union representative of the correctional officers ("union employees") at the County Prison for purposes of collective bargaining negotiations. For purposes of the facts relevant to this instant matter, the Teamsters and the County are parties to a collective bargaining agreement with a term of January 1, 2013 through December 31, 2016, as amended by an interest arbitration award with a term of January 1, 2017 through December 31, 2020, a copy of both are attached hereto at Exhibit "A".

6. Grievants, Baez and Phillips, were correctional officers at the Prison and also union employees.

Factual Background

7. The Grievants, Baez and Phillips, were correctional officers at the York County Prison until June 15, 2018, when their employment was terminated as a result of an incident occurring on May 1, 2018 involving an inmate with mental issues who had been placed on SP2 (suicide protection watch). (See Award at 5, 10, a copy of which is attached hereto at Exhibit "B".)

8. At the arbitration hearing, "[t]he Warden explained that it is very important that Correctional Officers perform their functions professionally." (Award at 10.)

9. The Employer's Code of Conduct requires proper conduct of Correctional Officers. "This involves an intelligent, humane, and impartial treatment of inmates. Profanity directed to inmates, or vengeful, brutal, or discriminatory treatment of inmates will not be tolerated." (Award at 10 (citing Prison Code of Conduct, Article 1).)

10. On May 1, 2018, Grievants were responsible for the care, custody and control of the above-referenced inmate with mental issues who had been placed on SP2. (Award at 5, 10.)

11. The Warden explained that when an inmate is on a suicide watch, they are in a state of crisis and he expects that Correctional Officers will comport themselves in a way that will de-escalate a situation. (Award at 10.)

12. Grievants were tasked with keeping the inmate in sight to assure his safety. (Award at 10.)

13. Phillips testified at the arbitration that at some point, he and the inmate got more verbally abusive. (Award at 14.)

14. At one point, Phillips called the inmate a "fag or a queer" in response to the inmate blowing Phillips a kiss. (Award at 14.)

15. In response to being called a "fag or a queer" by Phillips, the inmate stepped back and pulled out his penis. (Award at 14.)

16. Phillips told the inmate, "That doesn't impress anybody, put that little thing away." (Award at 14.)

17. The inmate complied, but the verbal exchange went on for 10 more minutes until the inmate ultimately put his mattress in front of the door, blocking the window into the cell. (Award at 14.)

18. This led to correctional officers entering the inmate's cell and ultimately resulted in a use of force incident against the inmate whereby the inmate was subdued and placed in a restraint chair. (Award at 15.)

19. Another correctional officer, Kelly Wilson, filed a report alleging that the Grievants had taunted the inmate in connection with the use of force incident. (Award at 18.)

20. Prison Administration conducted an investigation into the May 1, 2018 use of force incident.

21. "When investigations are conducted, it is expected that the Correctional Officer will be truthful." (Award at 10.)

22. During the investigation, Grievants were specifically asked, "Prior to or following the Use of Force, did you or any other staff taunt or antagonize [the inmate]?" (Award at 18 - 19.)

23. Both Grievants responded "no" to this question. (Award at 19.)

24. Phillips was also specifically asked, "Did you at any time prior to or following the 'Use of Force', make demeaning or defamatory sexual comments to [the inmate]?" (Award at 19.)

25. When asked this question, during his fact finding, Grievant Phillips answered "No." (Award at 19.)

26. The Prison Surveillance Tape, however, revealed that while Grievants were in charge of the inmate's care, custody and control, Baez taunted and antagonized the inmate by saying things such as:

- a. "Aww man. I wish you would've done something but you didn't."
- b. "I took the handcuffs off you. You had the opportunity to do whatever the fuck you wanted."
- c. "You don't want me to open the door. I open the door and you're gonna do the same thing. Look at me. You had me one on one."
- d. "You had a weapon."
- e. "Is that all you got? You got more? I'm still waiting."
- f. "You done now?"

g. "I'm just trying to talk. You're the one taking it out. I'm just trying to help out."

h. "You lied like a little bitch. You are a nobody. You are a nobody."

(See generally Award at 15 – 17 (transcribing Prison Surveillance Tape).)

19. Phillips also participated in the antagonizing and taunting of the inmate by saying things such as:

a. "You big pussy."

b. "Faggot. You're queer."

c. "You talk shit behind a door. You got nothing."

d. "You're a piece of shit."

e. "You're nothing."

f. "Big man with the curly hair."

g. "Big tough guy. Nothing."

h. "Pussy. Pussy."

i. "Faggot."

j. "Licked by a lesbian."

k. [Inmate opens his jumpsuit and exposes himself.]. Philips states, "Look at that little thing. That don't impress me."

l. Phillips tells Baez, "He showed me his little bipper too."

m. "Take down the mattress, dumb, dumb."

(See generally Award at 15 – 17 (transcribing Prison Surveillance Tape).)

20. The Parties defined what constitutes just cause for discharge, demotion, suspension and discipline through a table of offenses and associated discipline outlined in their collective bargaining agreement. (Award at 4 - 5.)

21. The discipline table contained in the CBA specifically provides for immediate termination for the first offense of dishonesty. (Award at 5.)

22. Therefore, both Grievants were discharged from their employment—not only for their taunting and antagonizing behavior toward the inmate which created a situation that resulted in a use of force, but also for dishonesty during the investigation. (Award at 10.)

23. At the arbitration hearing, the Union argued that the question Grievant Baez was asked regarding “taunting” was unfair because the investigation was supposed to be regarding use of force. It maintained that Commander Rohrbach’s last minute additional question resulted in “inaccuracies” but not dishonesty. (Award at 18.)

24. The arbitrator rejected the Union’s arguments regarding why the Grievants were not dishonest. (Award at 18.)

25. More specifically, the Arbitrator found that “[t]he questions asked of each Grievant were clear.”

26. The arbitrator specifically made the factual finding that both Grievants were dishonest during the investigation: “It is clear that both men were less than honest when questioned by Commander Rohrbach during the fact finding meetings.” (Award at 19.).

27. “The record clearly reveals and they, themselves, ultimately admitted, that they did make the taunting comments to the inmate.” (Award at 19.)

28. “Although Grievant Phillips did admit that he may have made sexual comments to the inmate five days after his fact finding meeting, neither fully acknowledged their actions until they heard the audio tape.” (Award at 19.)

29. Despite finding the Grievants were both dishonest, the Arbitrator found that “discharge is not found to be appropriate, [but] a serious penalty is warranted, and so will be awarded.” (Award at 20.)

30. The Arbitrator went on to return Grievants to work with full seniority but without back pay. Their time out of service was to be carried as a disciplinary suspension. (Award at 20.)

31. The discipline table contained in the Parties' collective bargaining agreement does not provide for disciplinary suspensions in cases of dishonesty.

32. It is the June 9, 2019 Award that the County now appeals, specifically petitioning this Court to Modify or Vacate same in order to conform with the terms of the collective bargaining agreement as agreed to by the Parties and also Pennsylvania law.

Standard of Review

41. Act 195 of Pennsylvania's Public Employee Relations Act provides that arbitration awards are reviewed pursuant to the "essence test." State Sys. of Higher Ed. v. State College Univ. Prof. Ass'n, 743 A.2d 405, 413 (Pa. 1999).

42. Pursuant to the essence test, a reviewing court must perform a two-step inquiry: "First, we ask whether the issue submitted to arbitration, as properly defined, is encompassed within the terms of the CBA. . . Second, we inquire into whether the arbitrator's award can be rationally derived from the CBA." Greene County v. District 2, United Mine Workers of America, 578 Pa. 347, 358, 852 A.2d 299, 306-07 (2004).

43. Here, the Opinion and Award issued by the Arbitrator should be invalidated as contrary to Pennsylvania law and the essence test, as the decision interprets the CBA contrary to standards outlined by Pennsylvania law and is not rationally derived from the CBA. Greene County, 578 Pa. at 363, 852 A.2d at 309. See also State Sys. of Higher Ed. v. Association of Pennsylvania State College & Univ. Faculties, 834 A.2d 1235, 1240 (Pa. Commw. 2003) (vacating

arbitration award where "the award is genuinely without foundation in or fails to logically flow from the CBA").

LEGAL OBJECTION I

(The Award exceeded the four corners of the Parties' collective bargaining agreement.)

44. The preceding paragraphs are hereby incorporated by reference as though fully set forth herein.

45. The Parties defined "just cause" in their collective bargaining agreement through an established discipline table which outlines numerous offenses along with corresponding penalties for same. (See CBA at Art. 18, §4.)

46. Pursuant to the parties' collective bargaining agreement, the Parties negotiated and agreed that in cases of proven dishonesty, employees shall be subject to immediate termination for their first offense. (CBA, Art. 18, §4. No. 5. ("Proven theft or dishonesty T[ermination]."))

47. The arbitration award specifically noted that Grievants' dishonesty was a separate and independent basis for their discharge: "The Grievants were also discharged for being dishonest during the investigation into the Use of Force incident." (Award at 18.)

48. The Arbitrator specifically went on to find that the Grievants were in fact dishonest: "It is clear that both men were less than honest when questioned by Commander Rohrbach during the fact finding meetings." (Award at 19.)

49. The Arbitrator went on, however, and declined to apply the negotiated and agreed upon discipline provided for under the Parties' collective bargaining agreement of immediate termination for cases of proven dishonesty. (Award at 19.)

50. Instead, the Arbitrator went on to modify the Parties' discipline table by imposing suspension upon Grievants: "Further, the Grievants were not forthcoming in their responses during their fact finding meetings. For these reasons, while discharge is not found to be appropriate, a serious penalty is warranted, and will be so awarded." (Award at 20.).

51. By failing to follow the discipline table, the Arbitrator has rewritten the terms of the Parties' collective bargaining agreement.

52. The Award cannot say to draw its essence of the bargaining agreement and, more specifically, the Parties' negotiated and agreed upon discipline table contained in same.

LEGAL OBJECTION II

(The Award Violates Public Policy.)

53. The preceding paragraphs are hereby incorporated by reference as though fully set forth herein.

54. There exists an explicit, well-defined, and dominant public policy against abuse of Prison inmates.

55. YCP is entrusted with the responsibility of operating and maintaining a Prison which is free from inmate abuse.

56. YCP maintains liability in the event it were to fail to take action to prevent abuse of its inmates.

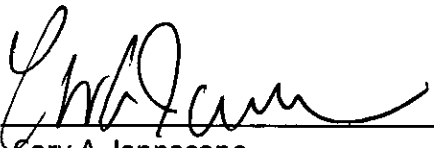
57. The Arbitration Award in this matter ordered reinstatement of Grievants who were determined to have taunted and antagonized an inmate with mental issues who was on suicide precaution watch.

58. Public policy requires that Grievants' terminations be upheld.

59. The County requests oral argument on the instant Petition.

WHEREFORE, the County respectfully requests that this Court modify or vacate the Award issued by the Arbitrator and issue an Order denying the grievances and upholding the County's termination of the Grievants' employment.

PILLAR+AUGHT

By: 
Cory A. Iannacone

4201 E. Park Circle
Harrisburg, PA 17111
Telephone: (717) 309.9628
*Attorneys for the Petitioner York County
Prison*

VERIFICATION

Clair Doll, deposes and says, subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities, that he is the Warden of York County Prison, that he makes this verification by its authority and that the facts set forth in the Petition to Modify or Vacate Arbitration Award are true and correct to the best of his knowledge, information and belief.

6/25/19

Date



Clair Doll

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Petitioner

Signature: 

Name: Cory A. Iannacone

Attorney No. (if applicable): 200530

EXHIBIT A

IN RE: ACT 195 INTEREST ARBITRATION BETWEEN

COUNTY OF YORK

AND

TEAMSTERS LOCAL UNION 776

Affiliated w/the International Brotherhood of Teamsters

On Behalf of

York County Prison Correctional Officers

(January 1, 2013 – December 31, 2016)

Hearing Date: November 4, 2013

Executive Sessions: December 16, 2013
December 17, 2013
January 6, 2014
January 22, 2014
January 31, 2014
February 7, 2014
February 21, 2014
February 25, 2014
March 3, 2014

INTEREST ARBITRATION PANEL

Union Appointed Arbitrator: Ronald T. Tomasko, Esquire
County Appointed Arbitrator: Cory A. Iannacone, Esquire
Neutral Arbitrator: Debra K. Wallet, Esquire

PREAMBLE

This Agreement entered into by the York County Prison, hereinafter referred to as the Employer, and Teamsters Local Union 776 of Harrisburg, Pennsylvania, affiliated with the International Brotherhood of Teamsters, hereinafter referred to as the Union, has as its purpose the promotion of harmonious relations between the Employer and the Union, the establishment of an equitable and peaceful procedure for the resolution of differences, and the establishment of rates of pay and hours of work and other terms and conditions of employment.

ARTICLE 1 RECOGNITION

The Employer recognizes the Union as the sole and exclusive bargaining agent for the purpose of establishing salaries, wages, and other conditions of employment for all full-time, part-time, regular, permanent employees designated in the Pennsylvania Labor Relations Board Order of Certification, dated October 30, 1975 and described as follows:

In a subdivision of the Employer unit comprised of all Correctional Officers, excluding, however, employees employed to enforce against employees and other persons, rules to protect property of the Employer or to protect the safety of persons on the Employer's premises and excluding supervisors and confidential employees as defined in Act 195. Also excluded are those employees who perform maintenance duties.

ARTICLE 2 UNION SECURITY

Section 1. The Employer and the Union agree that non-union members of the bargaining unit shall be subject to a Fair Share contribution pursuant to Pennsylvania Act 399 of 1993 (SB 399 and Amendments thereto). The Fair Share contributions rate for non-union members of the bargaining unit shall be based upon the cost of representation reflected in the Union's Annual Report. The County shall be notified of that cost on or about July 1 of each year. This payment shall be deducted in accordance with Article 4.

Section 2. The Union shall indemnify and save the County harmless against any and all claims, demands, suits or other forms of liability that shall arise out of, or by reason of, action taken or not taken by the County for the purpose of complying with any of the provisions of this Fair Share clause.

ARTICLE 3 MANAGEMENT RIGHTS

Section 1. The Management of the County operations and the direction of the working force is vested exclusively in the Employer and includes, but is not limited to the right to: hire, suspend, discipline or discharge for proper cause, or transfer, and the right to relieve employees from duty because of lack of work or for other legitimate reasons under this Contract; make and enforce reasonable rules of conduct; select supervisory and management personnel; introduce new or improved methods, equipment, or facilities or to change existing methods or

facilities; determine the total employment requirements, hours of work required for a particular operation and job assignments and job classification of personnel; establish functions, programs, budgets, organizational structure and standards of service and performance.

Section 2. The Employer and the Union declare their willingness at all times to discuss any of the matters above referred to which matters are not subject to the grievance procedure except as herein in this Article, and will give full consideration to any suggestions made by the Employer or the Union, provided further that none of these management rights shall be used in any discriminatory manner.

Section 3. The Employer and the Union agree that if, during the term of the contract, the legislature and/or the Courts of the Commonwealth of Pennsylvania, in an unappealable decision, determine that Section 1620 of the County Code applies to prisons and/or correctional officers, the current Panel will be vested with jurisdiction to reopen this Contract. Discussions shall commence sixty (60) days following the effective date of any legislation or final, unappealed award. The Panel's jurisdiction shall be limited to discussing the effects of and to the implementation of appropriate changes to the contract. The Panel agrees that none of the economic provisions of the Contract shall be changed by these deliberations (should they occur before the expiration of this Contract).

ARTICLE 4

UNION DUES - CHECK-OFF

Section 1. Dues/Fees and Assessments: The Employer agrees to deduct the initiation fees and fair share assessment fee over the first four (4) pay periods following employment. Membership dues and assessments and fair share fees will be deducted from the first two (2) pays of each calendar month from those employees who individually request in writing that such deduction be made. The amount to be deducted shall be certified to the Employer by the Union, and the aggregate deductions of all employees shall be remitted together with an itemized statement to the Union by the last business day of the month that such deductions are made providing the monthly billing roster used for the transmission of dues to the Union must be received by the Employer's payroll department no later than one (1) week prior to the first payday of the calendar month from which the deductions are to be taken. The Employer will provide a payday schedule by December 15th of the preceding year. This authorization shall be irrevocable during the term of this agreement.

Section 2. The Employer agrees to deduct from the paycheck of all employees who submit authorization cards and are covered by this Agreement voluntary contributions to D.R.I.V.E. D.R.I.V.E. shall notify the employer of the amounts designated by each contributing employee that are to be deducted from his/her paycheck on a weekly basis for all weeks worked. The phrase "weeks worked" excludes any week other than a week in which the employee earned a wage. The Employer shall transmit to:

National D.R.I.V.E.
P.O. Box 758637
Baltimore, MD 21275

The Employer shall send on a monthly basis, in one check the total amount deducted along with the name of each employee on whose behalf a deduction is made, the employee's social security number and the amount deducted from the employee's paycheck. No such authorization shall be recognized if in violation of State and Federal law. No deduction shall be made which is prohibited by applicable law.

Section 3. The Union shall indemnify and hold the Employer harmless against any and all claims, suits, orders, or judgments brought or issued against the Employer as a result of the action taken or not taken by the Employer under the provisions of this Article.

ARTICLE 5 HOURS OF WORK

Section 1. The workweek for full time employees shall normally consist of forty (40) hours for employees working in job classifications covered by this Agreement. The workweek for those employees shall be worked in five (5) consecutive eight-hour days or four (4) consecutive ten-hour days, or three (3) consecutive twelve-hour days that must be scheduled to include the weekend (in which case the normal workweek shall consist of 36 hours), subject to managerial discretion.

The Employer, at its discretion, may hire part-time employees to work less than forty (40) hours per week in order to accommodate scheduling needs. The number of part-time employees shall not exceed 15% of the number of full-time Correctional Officers. Part-time employees must meet the same training requirements as full-time employees.

Part-time employees scheduled to work less than one thousand hours per year shall not be entitled to benefits under the provisions of the current agreement.

Part-time employees shall be considered as casual employees and shall not accrue seniority on the full-time roster. Part-time seniority shall be used to bid on full-time positions.

Part-time employees who work more than one thousand hours total in a year (January 1 to January 1) but less than forty (40) hours per week, shall be entitled to participate in the County retirement system as required under statute, health and life insurance benefits as provided herein, and prorated holiday, sick, and vacation accumulation.

Part-time employees will be provided uniforms by the County.

Section 2. The Warden shall have the ability to change the scheduled starting and ending times for each shift by up to thirty (30) minutes. Employees shall be notified in advance of changes in the hours of work by posting on departmental bulletin boards at least seven (7) days in advance. Changes in the scheduled hours of work shall be limited to two (2) per year, unless otherwise mutually agreed to by both the Union and Management. The start times for twelve-hour shifts shall be 08:00 and 20:00.

Employees may trade scheduled days-off with other employees within the same workweek; provided, however, that additional hours worked by any employee as the result of a trade shall not be counted for overtime purposes. In addition, employees shall be limited to two

(2) such trades of scheduled days-off in a six-month period. Consecutive days requested in connection with a trade shall count as one (1) trade. Trade days shall be counted against the employee making the request and shall not be counted against the employee who accepts such a request.

Section 3. The regular hours of work for any shift shall be consecutive, except that they will have a meal period which will not be part of the work shift unless it is with pay, as indicated in the MEAL PERIODS section below.

Section 4. There will be no docking of pay if employee is less than six (6) minutes late. If any employee is late more than six (6) minutes, the pay will be docked to the nearest tenth of the hour. Employees shall be considered on time for work if they are at their assigned post at the designated starting time. Employees who, because of circumstances within the Prison, are unable to be at their post at the designated starting time shall, nonetheless, be considered on time.

Any staff member who has not contacted the Control Center within fifteen minutes after the start of the shift will be considered a No Show/No Call. If employees contact the Control Center between the start of the shift and fifteen minutes later, employees must be clocked in within one hour of the scheduled start of their shift. It is not the responsibility of the Employer to contact staff members who fail to report for their shifts.

Section 5. In addition to the employee's regular classification rate, those employees assigned or scheduled to work on the second shift shall be entitled to a shift differential of fifty-five (55) cents per hour for all such work performed on the second shift.

In addition to the employee's regular classification rate, those employees assigned or scheduled to work on the third shift shall be entitled to a shift differential of seventy (70) cents per hour for such work performed on the third shift.

Section 6. Employees required to report to the prison or who voluntarily respond to a work call, shall be guaranteed fifty percent (50%) of hours called for with a minimum of two (2) hours pay. Employees required to report to the shooting range will be compensated for all hours worked but are not guaranteed two (2) hours pay. Employees may be required to report to the shooting range only immediately before, or immediately after, a regularly scheduled shift. Employees are entitled, on request, to a minimum of eight hours off between tours of duty, except in times of operational emergencies.

ARTICLE 6 MEAL PERIODS

Section 1. All Correctional Officers shall be granted a one-half (1/2) hour meal period and meal with pay, which shall be part of their shift. Under normal circumstances, this meal will be served within four (4) hours from the start of the shift, with the exception of the evening shift, in which case the meal period shall start no earlier than one (1) hour after the start time of said shift. Employees shall be allowed to exit the building during their lunch period but cannot leave the premises of the York County Prison.

Section 2. If an employee works over four (4) hours (or in cases where the employee works four (4) hours and there is a regularly scheduled meal period), either in addition to the normal shift or as an overtime shift, the Employer shall furnish said employee a meal.

Section 3. In the event an employee's meal period must be interrupted, the employee shall be given another meal period prior to the end of his/her normal work shift.

Section 4. When transporting or guarding inmates away from the prison, employees shall receive a meal allowance of up to \$12 for breakfast, \$17 for lunch and \$27 for dinner.

Section 5. The staff lounge shall be available to staff twenty-four (24) hours a day for purposes of having access to beverages and vending machines available in the lounge. Outside scheduled breaks or meal periods, staff must first obtain approval from a supervisor prior to visiting the lounge. Nothing in this section shall limit the Employer's management rights with respect to the staff, including but not limited to the right to supervise and discipline employees for just cause for violation of work rules in connection with their use of the lounge.

ARTICLE 7 HOLIDAYS AND PERSONAL DAYS

Section 1. The following eleven (11) days shall be recognized and observed as paid holidays:

New Year's Day	Labor Day
Presidents' Day	Columbus Day
Martin Luther King's Birthday	Veterans Day
Good Friday	Thanksgiving Day
Memorial Day	Christmas
Independence Day	

Employees, who work on Easter Sunday, shall be entitled to time and one-half (1 1/2) their regular hourly rate of pay for all hours worked on said holiday.

Section 2. Eligible employees shall receive their regular day's straight time pay for each of the above listed holidays on which they perform no work.

Section 3. If an employee is scheduled normally and works on any of the holidays listed in Section 1 of this Article, the employee shall receive time and one-half his/her regular hourly rate of pay for hours worked, in addition to the eight (8) hours holiday pay, provided the employee meets the criteria set forth in Section 6 of this Agreement.

Volunteers working on a holiday cannot be forced to work more than the period of time they volunteered to cover, except in cases of operational emergency.

Management will post vacant Holidays for a period of seven (7) days. Available holidays and awarded holidays shall be posted at all time clocks. Holidays will be awarded within seven (7) days on seniority basis. When canceling an awarded holiday(s), employees must give fourteen (14) days notice.

Holiday hours are not included as hours worked when computing overtime.

Section 4. The holidays listed above will begin at midnight the day before the actual holiday and cease at midnight on the holiday.

When any of the above listed holidays falls on an employee's regular day off, he/she shall be entitled to a day's pay.

Section 5. If any of the legal holidays under this Article falls within a scheduled vacation period, an additional day of vacation shall be granted.

Section 6. Employees shall be eligible for holiday pay under the following circumstances:

The employee worked his last regularly scheduled workday prior to and immediately following such holiday or was on vacation, sick leave, or an absence excused by this Employer with pay. In the event an employee is scheduled to work on a listed holiday and calls off sick, said employee shall be subject to an occurrence as stipulated under Article 9, Section 9, (#2), regardless of compensable status.

Section 7. Personal Leave Days: Bargaining unit members shall be entitled to utilize up to 2 personal leave days effective January 1 of each contract year. Bargaining unit members shall be entitled to request payment for each personal leave day not used as follows:

- 1 day effective January 1
- 1 day after July 1

Bargaining unit members who utilize the second personal leave day prior to July 1, thereby utilizing anticipated personal leave, and who then leave employment within the bargaining unit, shall be required to reimburse the County for those days used and/or paid and not earned in accordance with the 1/1 and 7/1 dates. In the event the employee fails to reimburse the County as indicated above prior to receipt of their final pay, said time shall be deducted from accrued vacation time, if available, or wages involving the last pay if available, otherwise the amount shall be deducted from the employee's retirement contribution refund, or retirement annuity payments if employee is eligible.

Any personal leave days carried in excess of 2 shall be paid to the employee on the first pay period after January 1.

For scheduling purposes, personal leave days shall be considered as vacation days.

ARTICLE 8 VACATIONS

Section 1. Employees shall be eligible for and receive paid vacations according to the following schedule:

<u>Service</u>	<u>Vacation Period</u>	
0- 48 months (4 yr.)	6.67 hours / completed month	80 hours / yr.
49- 120 months (10 yr.)	10.00 hours / completed month	120 hours / yr.
121-180 months (15 yr.)	13.36 hours / completed month	160 hours / yr.
181- 240 months (20 yr.)	15.33 hours / completed month	184 hours / yr.
Over 241 months	16.72 hours / completed month	200 hours / yr.

A vacation day may be taken without prior approval but with a twenty-four (24) hour notice provided it does not result in mandatory overtime. Vacation requests shall be submitted to the Warden or, in cases where the Warden is unavailable, to the Warden's designee. If it is possible for the Employer to give vacation time upon receipt of a shorter notice, the Employer may grant time off.

Section 2. After an employee completes his/her first 90-days of the probationary period, he/she shall be entitled to vacation earned during the probationary period.

Section 3. Employees may accumulate a maximum of 720 hours of vacation. Upon resignation, discharge, or retirement, employees shall be entitled to payment for all accumulated, unused vacation up to a maximum of 720 hours.

Section 4. Vacation pay shall be the employee's regular rate of pay, including any differential pay if applicable, in effect for the employee's regular job on the payday immediately preceding the employee's vacation period.

Section 5. In scheduling vacations, the Employer shall have a right to limit the number of officers who are on vacation in any week to fifty (50), unless the Warden can justify a lesser number based on prison conditions, including safety and effective operation of the facility. Of these fifty (50), the Employer shall have the right to limit the maximum number of officers on vacation in any one week on a specific shift as follows:

Day	20
Evening	15
Night	15

Vacation slots shall be offered during the month of December for the following calendar year and awarded based on seniority. After January 1st, open slots shall be filled on a first-come, first-served basis.

Section 6. If the Employer in its discretion chooses to replace an employee who is on vacation, it shall first seek volunteers. The Employer shall have the right to require the least senior qualified employee not otherwise scheduled for vacation to report to work.

Section 7. With a minimum of seventy-two (72) hours notice prior to the end of the pay period, employees may take full pay in lieu of time off for the accumulated vacation days.

ARTICLE 9 SICK LEAVE

Section 1. Employees shall be eligible for and receive paid sick leave according to the following schedule:

<u>Service</u>	<u>Sick Leave</u>
0 - 24 months	4 hours/completed month 6 days
Over 24 months	8 hours/completed month 12 days

The maximum accumulation of sick leave shall be 120 days.

Section 2. After an employee completes his\her first 90-days of the probationary period, he\she shall be entitled to sick leave earned during the probationary period.

Section 3. Upon resignation or discharge, employees will not be paid for any accumulated, unused sick leave. Upon retirement, employees shall be entitled to payment for up to one-half (1/2) of accumulated, unused sick leave at the rate of fifty (50) percent of their current daily rate of pay. Payment shall be made with the employee's final paycheck.

Section 4. One (1) day per six-month period of accumulated sick leave or vacation leave may be used for emergency purposes. In order to use an emergency day, an employee must have a minimum of eight (8) hours accumulated sick leave or vacation leave.

For purposes of this Section, a six-month period shall be calculated from January 1 through midnight June 30, and July 1 through midnight December 31 as six-month periods.

Employees shall be required to call in prior to the start of their scheduled work shift and advise the Employer of their intent to utilize an emergency leave day. Furthermore, it is agreed and understood that employees shall not carry over or accumulate an emergency leave day from one six-month period to another.

Section 5. Employees reporting off for sick leave shall call in and notify his/her immediate supervisor or the person otherwise designated by management of their intent to take sick leave no later than two (2) full hours prior to his\her work shift whenever possible. If less than two (2) hours notice is given, a verifiable emergency must be provided or disciplinary action may result.

Employees failing to report for four (4) consecutive days, shall be deemed absent without authorization and thereby subject to immediate dismissal, unless for a justifiable reason.

Section 6. Employees who do not use any accumulated sick leave during a six (6) month period shall be entitled to four (4) bonus hours of vacation.

For purposes of this Section, a six (6) month period shall be calculated from the date of January 1 through and including midnight June 30 and July 1 through and including midnight December 31.

Section 7. Employees shall be entitled to payment for any unused sick leave they have earned during the calendar year at the rate at which such sick leave was earned. Sick leave accumulation shall be calculated as of December 31 of each year, and payment for accumulated sick leave shall be included in the first pay in January of the following year.

Employees wishing to sell back accumulated sick leave shall notify the payroll department no later than the last pay of December. The payroll department shall then deduct from the employee's available credited sick leave the number of days the employee elects to sell back.

Sick leave buyout will not be paid out in less than one (1) full day increment.

Section 8. Sick days will not be paid in lieu of Workers' Compensation. If sick days are paid and the employee then qualifies for Workers' Compensation, a pay adjustment will be made and sick days will be credited to the employee.

Section 9. It is recognized by the Employer and Union that sick leave was established to protect employees from loss of income during an illness and was never intended to be used as personal leave to be taken at an employee's convenience, that abuse of sick leave is unfair to employees who only use sick leave as it was intended, and that abuse creates additional cost to the County. Therefore, the following rules will govern the use of sick leave.

1. Employees with a documented life threatening illness will not be given an "occurrence" for non-paid days off, provided they have a doctor's excuse for the absence.

The County shall develop a form to be utilized for submission to the employee's physician that must be completed and signed by the employee's physician, to be submitted to the Warden for review and consideration.

2. Effective January 1, 2009, any other non-compensatory time off as calculated by a rolling twelve (12) month period, other than a leave of absence as per Article 13 or approved time off under the FMLA, will be counted as an occurrence according to the schedule set forth below. Also effective January 1, 2009, all employees' occurrence levels shall be reset to zero occurrences and any subsequent occurrences shall be accumulated according to the following schedule (this provision shall not modify any discipline which was levied prior to January 1, 2009 and any discipline that was issued pursuant to the prior occurrence level schedule shall be judged on the prior occurrence level schedule):

Absences

One or more consecutive days
Absent, no call

First Occurrence
Second Occurrence
Third Occurrence

Occurrences

1
1 ½

Written Warning
Two Day Suspension
Subject to Termination

<u>Late/Leave Early</u>	<u>Occurrences</u>
Arrive Late/No Call	1
Arrive Late/With Call	½
Leave Early	½
Leave Early prior to 4 hours worked	1
First Occurrence	Written Warning
Second Occurrence	2 day suspension
Third Occurrence	Subject to termination

Note: the employee must receive notification in writing whenever a half or a whole occurrence is issued.

The Employer may refuse to honor a claim for sick leave if it has reason to believe the absence in question was not the result of a legitimate illness. If the Employer refuses to honor a claim for sick leave, discipline, as listed above, may be administered. If, on two occasions in any one calendar year, an employee has claimed sick leave in conjunction with relief days, holidays or vacations, the third or more occasion of an attempt to utilize sick leave may be cause for denial of sick leave and may result in discipline, even though the employee question had unused sick days. An employee who presents to the Employer written evidence, from a physician, that he or she was examined by the physician in conjunction with the illness which prompted the third (or more) absence, and which substantiates the need for such absence, shall be entitled to use available sick leave. The Employer may not discipline the employee for having so utilized sick leave. Any attempt by an employee, just-described, to utilize sick leave, for any reason, within a period of six months subsequent to the third (or more) use, must be accompanied by a physician's note.

Section 10. Sick leave and vacation for a given month shall be accrued and awarded on the first day of said month and shall be pro rated by any and all days the employee was in noncompensable status during the month prior. Thus, sick leave and vacation for April 2014 shall be accrued and awarded on April 1, 2014, and shall be pro rated by any and all days the employee was in noncompensable status during the month of March 2014. Sick leave and vacation for May 2014 shall be accrued and awarded on May 1, 2014, and shall be pro rated by any and all days the employee was in noncompensable status during the month of April 2014, and so forth.

Employees shall still accrue sick leave and vacation leave while on active military leave, both paid and unpaid.

ARTICLE 10 BEREAVEMENT LEAVE

Bargaining unit members are entitled to Bereavement Leave according to County Policy AW 1.1 Bereavement Leave. Any proposed revisions will be negotiated with the Union prior to implementation.

The employee will be eligible to use any accrued vacation and/or personal leave in addition to the contractual number of bereavement days.

ARTICLE 11 MILITARY LEAVE

Bargaining unit members are entitled to military leave as required by applicable law.

ARTICLE 12 FAMILY/MEDICAL LEAVE

Section 1. Any bargaining unit who has worked for the County for at least one year, and who has worked at least 1,250 hours in the preceding twelve (12) months is eligible to utilize up to twelve (12) weeks of family/medical leave during a twelve (12) month period for any of the following reasons:

- (a) Bonding leave to care for a child under one of the following conditions:
The birth of a son or daughter and in order to care for such son or daughter (leave must be taken and completed within twelve (12) months after birth) or the placement of a son or daughter with the employee, for adoption or foster care (leave must be taken and completed within twelve (12) months after placement)
- (b) To care for a spouse, son, daughter, or parent with a serious health condition, or
- (c) An employee's own, serious, health condition that makes the employee unable to perform the functions of his/her job.

The twelve (12) month period of eligibility is calculated on a rolling basis by counting forward from the date of a leave request and runs concurrently with other County leave or paid time-off programs, as noted below. Once allowable paid time is exhausted, the remaining family/medical leave will be unpaid.

Leave for birth or placement (bonding leave) must be taken at one time, in consecutive days or weeks. Employees utilizing leave for bonding, or for their own serious health condition, must first utilize any accrued sick leave, in addition to seventy-five percent (75%) of accrued vacation and personal leave. Once accrued vacation and personal leave time is exhausted, remaining leave will be unpaid.

Leaves due to the serious health condition of a family member may be taken intermittently, or on a reduced schedule, when medically necessary, and provided the employee complies with the procedures described later. Employees utilizing leave because of a family member's serious health condition must use five (5) of their accrued sick leave days in addition to seventy-five percent (75%) of accrued vacation and personal leave as part of this twelve (12) week leave. Once accrued vacation and personal leave time is exhausted, remaining leave will be unpaid.

If both spouses are employed by the County of York and are otherwise eligible for family/medical leave, for bonding leave purposes, they are permitted to take only a combined total of twelve (12) weeks leave during any twelve (12) month period.

Any employee using unpaid family/medical leave shall not be entitled to holiday, bereavement, or jury duty pay while on such leave. Vacation/sick leave accruals are discontinued whenever an employee is on an unpaid leave of absence including unpaid FMLA leave.

During the period of family/medical leave, the Employer will continue to make premium payments to an employee's health care coverage, under the same terms and conditions as in existence on the date leave begins, or as changed during the period when the employee is on leave. The employee is required to continue his/her usual contribution to the cost of the insurance coverage. Provision for payment of such contributions will be made at the time of leave request. If any contribution is more than thirty (30) days past due, the Employer will terminate health care coverage for the duration of the leave. Coverage will be restored upon the employee's return to work. The Employer will notify the employee, in writing, at least fifteen (15) days before the date that the health coverage will lapse.

If the employee fails to return to work at the conclusion of his/her family/medical leave, the Employer is entitled to recoup the cost of providing the employee's health care coverage. If, because of circumstances beyond the employee's control, he or she is unable to return to work or if the Employer grants an additional leave of absence, and the employee subsequently returns to work, the Employer shall not seek to recoup the costs of providing health care coverage.

Section 2. When requesting family/medical leave, whether paid or unpaid, a thirty (30) day advance notice is required when the necessity for leave is foreseeable. Where the need for leave is not foreseeable, the employee must provide notice as soon as practical (within one or two days of discovering the need for leave). Failure to provide such notice may result in the employee's leave being delayed. The notice shall include sufficient explanation of the reason for leave, the date on which leave is anticipated to begin, and the anticipated duration of the leave.

Employees requesting leave due to their own, or a qualifying family member's, health condition must, in conjunction with their health care provider, submit medical certification of the need for leave every thirty (30) days. Failure of the employee to provide the completed forms to the Employer, within fifteen (15) days of the Employer's request for such forms, may result in denial of leave until certification is provided or revocation of an employee's entitlement to continued leave.

Employees requesting intermittent leave, or leave on a reduced schedule due to a serious health condition, must first make a reasonable effort to schedule any treatment so as to not unduly disrupt the operations of the Employer (if such need is reasonably foreseeable). They must also provide, as part of the medical certification from the health care provider describing why such intermittent or reduced schedule leave is medically necessary.

Employees are required to notify the Employer, every thirty (30) days, of their intent to return to work and, where applicable, are required to update their medical certification every

thirty (30) days. Employees returning from a leave due to their own serious illness or injury must provide a Return to Work Certificate from their health care provider prior to returning to work or reinstatement.

Section 3. On the fourth day of an employee's absence from work following three (3) consecutive days of absence, or upon request from an employee eligible for medical leave, the Employer will designate the leave as family/medical leave where circumstances indicate that the leave qualifies, and shall inform the employee of this fact and of any paid vacation or sick time that must be used as part of the twelve week family/medical leave.

If the Employer has reason to doubt the validity of any medical certification provided, the Employer may, at its own expense, require a second opinion of a health care provider approved or designated by the Employer, so long as the provider is not employed, on a regular basis, by the County of York. If there are conflicting medical opinions, a third opinion, which will be final and binding on both the Employer and the employee, may be required by the Employer, at the Employer's expense, from a health care provider approved jointly by the Employer and the employee. Should the Employer and employee be unable to agree on the identify of the third health care provider, the third health care provider shall be selected by the health care provider utilized by each of the Employer and the employee. Failing agreement by the two health care providers, the third health care provider shall be selected by a coin toss.

An employee who requests intermittent leave, or a reduce leave schedule, because of planned medical treatment, may be temporarily transferred, at the Employer's option, to an alternate position having equivalent pay and benefits for which the employee is qualified and which better accommodates recurring periods of leave.

The Employer is responsible for keeping records required by the federal Family and Medical Leave Act and for ensuring that all medical information is kept in a separate file which will be kept confidential, except as required to coordinate the employee's leave.

Section 4. An employee returning to work from family/medical leave is generally entitled to be restored to his/her previous position or to an equivalent position, with equivalent pay, benefits and other terms and conditions of employment. An employee will not be reinstated if he/she otherwise would not have been employed at the time reinstatement is requested. The Employer is not obligated to reinstate any employee whose job position is eliminated while on leave.

ARTICLE 13 LEAVE OF ABSENCE

Section 1. Service credit (seniority) shall continue to accrue during leave of absence as provided by this Agreement.

Section 2. All requests for leave must be submitted in writing to the employee's departmental head and shall be answered in writing. Requests for emergency type leaves shall be answered before the end of the shift on which the request is made. Except for such emergency type leaves, the time when leave is taken is within the discretion of the Employer.

Section 3. Requests for any type of leave to which an employee is entitled under this Agreement and which is not to exceed one month shall be answered by the Employer within five (5) days. If the requested leave is in excess of one month, the request shall be answered within ten (10) days.

Section 4. All leaves of absence except maternity/disability, and military will be granted at the Employer's discretion.

Section 5. Leaves of absence without pay may be granted by the Employer for period of up to ninety (90) days before termination. Additional days may be granted by the Employer based on individual needs.

Section 6. Employees shall have the right to return to the same position within the same classification he/she held prior to going on disability/childbirth leave, or to an equivalent position with regard to pay and skill.

Section 7. Employees holding elected Union office shall upon request receive a leave of absence without pay for the term of their office.

ARTICLE 14 OVERTIME

Section 1. No employee shall begin work prior to his/her scheduled hours of work unless authorized by the Employer. An employee may report to work prior to his/her starting time if requested to do so by the Employer. Hours scheduled and worked will be regarded as hours worked for the purpose of computing overtime. Hours utilized as vacation, sick, or personal leave shall not be included in computing the number of hours worked for purposes of overtime entitlement.

Section 2. Overtime as set forth in the CBA will be calculated in accordance with the manner calculated by the County's time entry system. Specifically, daily overtime shall be calculated as any hours worked in excess of eight (8), ten (10) or twelve (12) in any workday (depending on bid)—specifically, examining continuous hours worked.

a. When an employee works a shift in addition to the employee's pre-assigned shift, the first eight, ten or twelve hours of work (depending on bid) shall be calculated as regular hours and the additional hours of continuous work in excess of the first eight, ten or twelve worked shall be calculated as overtime.

b. By way of specific example, a Correctional Officer who is assigned to the 8:00 a.m. to 4:00 p.m. shift and volunteers to work the midnight to 8:00 a.m. shift leading up to his pre-assigned shift shall have the midnight to 8:00 a.m. shift calculated as regular hours and the 8:00 a.m. to 4:00 p.m. shift calculated as overtime hours.

Similarly, weekly overtime shall be calculated as any hours worked in excess of the first forty (40) hours in a given week. The first forty hours worked shall be calculated as straight time.

Overtime hours shall not be pyramided.

Section 3. Overtime work shall be assigned as far as practicable to employees within their respective job classifications. If necessary, the Employer may assign overtime to part-time Correctional Officers prior to awarding overtime to full-time Correctional Officers.

Section 4. All vacancies shall be offered by a supervisor to qualified employees by seniority. Employees may elect to cover four (4), eight (8), ten (10), or twelve (12) hour segments of the vacant shift. In the event that an insufficient number of volunteers are secured, mandatory overtime can be assigned by the supervisor in inverse order of seniority. Once awarded, the employee is required to work or is subject to disciplinary action under the occurrence system. Employees so mandated may not be ordered again for a minimum of 48 hours from the end of the mandatory overtime.

Section 5. Management is not responsible for errors on the call list. If an error is made, the employee will be offered the next available overtime opportunity. However, if the employee is unable to work the next available overtime, he will retain his place on the call list for two (2) additional overtime opportunities. If the employee has declined to work overtime three (3) times, he will then return to his normal place on the seniority list. It is the employee's responsibility to notify the officer running the call list that he has been improperly by-passed and wants to be notified of the next available overtime opportunity.

Section 6. Employees who volunteer to work more than three hundred and twenty (320) overtime hours in any calendar year, shall receive a bonus of five hundred dollars (\$500), which sum shall be payable, by separate check (beginning January 1, 2014 and continuing for each January thereafter) following the year for which the employee is eligible to receive the bonus. For purposes of this section, the overtime bonus will be determined at the end of the year based upon overtime hours actually worked during said year. Hours paid as straight time shall not be counted.

Section 7. The Union and Management agree to meet and discuss modifications to the prescribed staffing of overtime as from time to time that the parties agree that it may be necessary. Management is not obligated to adopt the Union's position following any meet and discuss that takes place as a result of this Section.

ARTICLE 15 EARNINGS

Bargaining unit members who join the bargaining unit subsequent to the effective date of this award and who are in their one-hundred eighty (180) day probationary period shall be paid \$1.00 per hour less than the lowest rate on the chart for the applicable year. For the next one-hundred eighty five (185) days immediately following the employee's probationary period, the employee shall be paid \$0.50 per hour less than the lowest rate on the chart for the applicable year. Employees who are still in their probationary period on the effective date of this award are subject to the provisions of this paragraph until the expiration of their probationary period.

The wages reflected in the chart below are retroactive to the dates specified therein.

Years of Service	2013 Hourly Rate	2014 1-Jan	2015 1-Jan	2016 1-Jan
0 - 4 years	\$22.03	\$22.23	\$22.43	\$22.50
5 - 9 years	\$22.54	\$22.94	\$23.34	\$23.69
10 - 14 years	(a) \$22.83 (b) \$25.91	\$23.83	\$24.43	\$25.18
15 - 20 years	\$26.20	\$26.50	\$26.80	\$27.11
20+ years	\$26.49	\$26.99	\$27.54	\$28.00

For the term of this contract, and regardless of an employee's anniversary date, employees shall receive their wage increases on the dates scheduled in the chart above (*i.e.*, on January 1 of the calendar year).

Full-time Correctional Officers employed with the County Prison on January 1, 2013 and through December 31, 2013 shall receive a one time lump sum bonus payment in the amount of five hundred dollars (\$500) payable following the execution of the instant Award.

Part-time employees shall be compensated at the rate of \$19.10/hour for the term of this Award.

ARTICLE 16 WORK OUT-OF-CLASSIFICATION

Section 1. Employees assigned to do work of a higher classification will receive the pay rate of the higher classification for all time worked in such higher classification, plus shift differential by classification, provided the employee works a minimum of four (4) hours in the higher classification.

Section 2. If an employee feels that he is working out-of-classification, he shall be able to go through the grievance procedure up to and including, arbitration. If the Employer and Union agree the person is working out-of-classification, he shall be given the higher classification pay adjustment for the period stipulated in Section 1.

ARTICLE 17 WORK RELATED INJURIES

Section 1. An employee who sustains a work related injury, as a result of which he is hurt, is so determined by decision issued under the operation of the Worker's Compensation Program, shall be paid the money to which he may be entitled under Worker's Compensation.

Section 2. Sick leave and annual leave shall continue to accrue for a two-year period, if an employee sustains a work related injury as outlined above.

Section 3. In the event an employee is certified by his/her physician as being able to return to their normal job duties, they must do so immediately. In the event an employee is

certified by his/her physician as being able to perform other duties than those in their normal classification, and provided the Employer has such duties available, the employee is required to return to work and work within those assigned duties, at their normal rate of pay.

If not otherwise reimbursed, employees will be compensated for mileage, parking, and meal expenses (not to exceed the amounts provided for under Article 6, Section 4 of this Agreement), which are incurred for given work assignments outside the institution.

All actions by the Employer and the employee under this Article will be governed by the Commonwealth of Pennsylvania, Department of Labor and Industry, Bureau of Worker's Compensation Rules and Regulations published under the Pennsylvania Code, Title 34 (Labor and Industry) Chapter 121.

Section 4. An employee who sustains a work related injury is entitled to receive medical attention and may be relieved of duty if the injury is of a serious nature, as determined by a qualified person, or upon the employee's request.

Once the employee is relieved of duty, he/she is required to report immediately to the employer's designated medical treatment facility for examination and treatment.

Transportation will be provided to the appropriate medical facility if the injury is of a serious nature as determined by qualified medical personnel.

An employee relieved of duty because of work related injury and/or illness shall suffer no wage loss for that shift or day and this time shall not be deducted from accumulated sick leave. For all subsequent days which the employee remains incapacitated from the work related injury, the employee shall be entitled to use accumulated sick, vacation or personal leave. If sick, vacation or personal leave is paid and the employee qualifies for Workers' Compensation, a pay adjustment will be made and sick, vacation, personal leave will be credited to the employee.

If an employee is determined to be able to work (i.e.: return to their normal job duties) the employee is required to furnish a document to that effect from the treating physician and give it to his/her supervisor prior to returning. The employee is then required to report for work on the next scheduled day and shift. Failure to do so could result in disciplinary action.

If an employee is determined to be disabled (i.e.: not able to perform their normal duties) as determined by the treating physician, the employee is required to furnish the employer with a document so stating the disability and approximate duration.

Section 5. If an Officer's dentures or eyeglasses are damaged or broken as a result of an altercation in the line of duty, the Employer shall replace the same at the Employer's cost.

ARTICLE 18

DISCHARGE, DEMOTION, SUSPENSION AND DISCIPLINE

Section 1. The Employer shall not demote, suspend, discharge, or take any disciplinary action against an employee without just cause. An employee may appeal a demotion, suspension, or discharge beginning at the third step of the grievance procedure,

subject of any conditions set forth in the Grievance Procedure. The Union shall be notified in writing within four (4) calendar days by the Employer of any demotion, suspension or discharge.

Section 2. Any action instituted under Section 1 of this Article shall be implemented within fifteen (15) calendar days after the Union has been notified in writing, after the event giving rise to such disciplinary action or knowledge thereof. The time limit above may be extended by mutual agreement.

Section 3. The Employer will attempt to discipline employees in such a manner so as not to embarrass the employee before the public or other employees. Where insubordination or flouting of authority by an employee in public and in the presence of other employees takes place the Employer shall not be restricted by the operation of this section.

Warning letters, and/or minor infractions or violations shall not be considered or used by the Employer when issuing discipline, provided that such letters and/or warnings had been issued at least eight (8) months prior.

However, incidents, and/or violations that have resulted in a suspension, may be considered by the Employer when assessing disciplinary action for fourteen (14) months.

Any bargaining unit member who is incarcerated for any offense is subject to suspension without pay, pending disposition of the charges, and dismissal if found guilty of the offense charged. However, if the employee is found innocent, he will be made whole.

Any bargaining unit member who is found guilty of any criminal charge that reflects on the professionalism or goals of prison operations shall be terminated.

Section 4.

	<u>OFFENSE</u>	<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>
1.	Use of intoxicating liquids or drugs on the job or reporting to work under the influence of same. (Narcotics, Barbiturates, or Amphetamines) or the possession of same on the job.	T			

Note: employee shall be eligible for reinstatement after successful completion of an approved rehabilitation program. This shall be a one-time opportunity and does not apply to those employees being disciplined solely for possession of illegal substances.

2.	Absolute refusal to comply with a direct order of any Supervisor without justification	S	T
3.	Leaving premises without permission.	1-D	T
4.	Involvement in unprovoked altercation.	S	T

5.	Proven theft or dishonesty.	T			
6.	Knowingly punching of a Time Card by other than the one whose name appears.	S	T		
7.	Abandonment of Position-Absence/No call for four (4) consecutive days.	T			
8.	Immoral, indecent or vulgar conduct relating to the public.	S	T		
9.	Willful destruction of County property.	T			
10.	Sleeping on duty.	3-D	T		
11.	Immoral actions in regard to co-employees.	3-D	T		
12.	(a) Disclose information concerning an inmate without consent of employer.	1-D	3-D	T	
	(b) Employee divulging personal information regarding another employee without consent.	1-D	3-D	T	
13.	Failure to follow instruction or perform assigned work.	W	3-D	T	
14.	Wasting time or loitering during working hours.	W	3-D	T	
15.	Making maliciously false or slanderous statements regarding another employee or Supervisor.	W	3-D	T	
16.	Failure to follow established safety regulation.	W/1-D	3-D	T	
17.	Unjustified absenteeism or habitual tardiness,	3-D	T		
18.	Extending break or lunch period beyond allotted time.	3-D	T		
19.	Accepting gifts, gratuities or payment from other than the Employer, in connection with inmates.	S	T		
20.	Selling, soliciting or collecting contributions for any purposes on County premises without authorization Except charities	W	W	3-D	T
21.	Making personal calls on facilities phones and/or time without approval.	W	3-D	T	

- | | | | | | |
|-----|---|-------|-----|-----|---|
| 22. | Refusal of Mandatory Overtime. | W | W | 3-D | T |
| 23. | Bringing contraband or any unauthorized item into the prison (including tobacco products) | W/1-D | 3-D | T | |
| 24. | Personal dealings which compromise the security of the prison | S | T | | |

Note: T means "Termination"

1D means "1 day Suspension"

3D means "3 day Suspension"

W means "Written Warning"

The parties agree and understand that those offenses indicated SUPRA do not necessarily constitute or incorporate all the rules and regulations of the employer, and that the employer may take disciplinary action pursuant to Article 3 for offenses other than those listed above, which in the opinion of the employer are contrary to its orderly operation or reputation interests.

ARTICLE 19 SENIORITY AND VACANCIES

Section 1. Departmental seniority shall be the determining factor in all cases of promotion, demotion, transfer, increase or decrease in working forces, layoff or recall, job bidding, and as used herein shall mean length of continuous service within the department, plus ability to do the job. Once a bid has been awarded, the employee may not bid back on the previously held bid (same shift, same days off) for a period of thirty days.

Section 2. The Employer agrees to post all bargaining unit vacancies within one week of the vacancies for a period of six (6) working days. Such posting shall include the shift, work days, and hours, and shall be posted on all departmental bulletin boards. During this six (6) day period, any bargaining unit employee may apply in writing for such job. A locked box shall be provided by the employer for submission of the written bid selection. In the event the Employer receives no bids, the Employer may hire from the outside or require the filling of the vacancies by reverse order of seniority. The awarded bid will start the first day of the next pay period.

A Union steward or alternate steward must be present to witness the opening of all bids.

Section 3. A vacancy shall be any position which has become open within the Bargaining Unit of termination of employment, promotion, transfer, or demotion of the previous employee and any position which becomes available by reason of an increase in working forces made by the Employer, except as hereinafter provided:

(a) The following are to be considered temporary vacancies not subject to the job posting procedure:

(1) Absence of an employee because of vacation, illness, injury, leave of absence, or other temporary reasons of thirty (30) days or less duration.

(2) An increase in working forces of thirty (30) days or less duration.

(b) In the event the above temporary vacancies are filled by the Employer, seniority as defined in this Agreement shall be followed.

(c) No vacancies shall occur where the Employer determines that the position is eliminated because it is no longer needed.

Section 4. After sixty (60) days, any employee returning to the Bargaining Unit from supervision will forfeit his seniority and start as a new employee.

Section 5. Employees who are laid off shall retain their seniority and recall rights for a period of three years. All recall notices shall be made by certified mail to the employee's last known address on file at the prison.

ARTICLE 20 GRIEVANCE PROCEDURE

Section 1. Grievance Procedure Definitions -

(a) Grievance - an alleged breach or violation of this Agreement or a dispute arising out of the interpretation or application of the provisions of this Agreement.

(b) Grievant - any employee or group of employees or Bargaining Representative claiming the alleged breach or violation of this Agreement or claiming a dispute has arisen out of the interpretation or application of the provisions of this Agreement.

Section 2. Scope of Grievance Procedure:

(a) Any matter not specifically covered by any provision of this Agreement, as well as any matter reserved to the discretion of the County by the statutes, legal precedents and regulations of the Commonwealth of Pennsylvania, and/or by the terms of this Agreement is not a grievance and will not be construed as a grievance.

(b) An election by the grievant to utilize the grievance procedure will preclude such issue from being raised in any other manner or proceeding.

Section 3. Informal settlement of alleged grievances.

(a) Any grievant shall first discuss and attempt to settle the alleged grievance at the lowest appropriate level; i.e., an employee will discuss the matter with his immediate supervisor.

(b) The grievant may attempt to resolve the alleged grievance informally, either directly or through the Bargaining Representative's designated representative; nothing herein shall restrict the rights of any person that are provided in Section 6060 of Act 195, effective October 21, 1970.

Section 4. Miscellaneous provisions.

(a) It is agreed that any grievance must be presented under the procedures of this Article promptly and within the prescribed time limitations. Time limits in the appeal steps may be extended by mutual consent of the parties.

(b) Grievances not responded to by the Grievant within the prescribed time limits shall be considered dropped and shall not be further appealed or filed as a new grievance.

(c) Grievances not responded to by the Employer (except grievances in Step 1 when an elected official is the immediate supervisor) within the prescribed time limits shall be considered decided in favor of the Grievant.

(d) Conferences, meetings, and hearings held pursuant to this grievance procedure shall be set by mutual agreement.

(e) The Bargaining Representative shall inform the County in writing of all persons authorized to settle grievances on level or advance grievances to the next level. Only such persons shall settle and/or advance such grievances. All answers to and advances of grievances in and from Level One and above shall be in writing with reasons.

(f) The Bargaining Representative and the County will each bear its own costs incurred in the grievance procedure, except that both parties will share the cost of the arbitrator equally.

(g) Nothing in Article 3 shall prevent the parties from settling an alleged grievance to their mutual satisfaction prior to the issuance of the arbitrator's decision.

(h) Any grievance settled in Steps 1 and 2, shall not be a precedent.

Section 5. Procedural steps for grievance processing.

Step 1. The Union Steward, with or without the employee, shall take up the grievance or dispute with the employee's immediate supervisor within ten (10) working days of its occurrence, or knowledge thereof. The supervisor shall then attempt to adjust the matter and shall respond to the Steward within ten (10) working days. Working days shall include: Saturday, Sunday and Holidays for full week operations.

Step 2. If the grievance has not been settled, it shall be presented in writing by the Union Steward or the union grievance committee to the Prison Warden within ten (10) working days after the supervisor's response is due. The Prison Warden shall respond to the Union Steward or the grievance committee in writing within ten (10) working days.

Step 3. If the grievance still remains unresolved, it shall be presented by the Union's designee to the designee of the County Commissioners in writing within ten (10) working days after the response of the Prison Warden is due. The Commissioner's designee shall respond to the union in writing within ten (10) working days.

Step 4. If the grievance is still unsettled, either party may, upon written notification to the other and within ten (10) working days after the Commissioner's response is due, request arbitration. The parties may, after either party has submitted the matter for arbitration within the prescribed timeframe, mutually agree to seek a remedy by utilizing the Pennsylvania Bureau of Mediation. If the parties do not mutually agree to submit the matter to the Pennsylvania Bureau of Mediation, it shall proceed to arbitration.

Section 6. The parties shall mutually agree upon a panel of ten (10) arbitrators who are each members of the National Academy of Arbitrators. Each grievance that reaches the 4th step of the grievance procedure shall be assigned to a member of the panel in rotating order.

Section 7. The decision of the arbitrator shall be final and binding on both parties.

Section 8. Payment of the impartial arbitrator shall be borne equally by the two parties. Each party shall assume the responsibility for payment of its side.

ARTICLE 21 UNION BUSINESS

Section 1. Employer agrees to provide two Union bulletin boards for the posting of notices, election and other pertinent Union information. The Union shall designate reasonable locations for these bulletin boards.

Section 2. Union representatives shall be permitted to investigate and discuss grievances during working hours on the Employer's premises, but not in work or inmates areas, except with special permission, and only after obtaining permission from the Employer or Employer's designee.

Section 3. The Employer agrees to pay two Union employees for reasonable work time spent during contract negotiations and processing of grievances.

Section 4. The Employer agrees to provide all new bargaining unit employees with a copy of the existing contract. Expenses are to be equally borne by the Employer and the Union.

Section 5. The Employer agrees to provide space, accessible to all employees, for a box in which to deposit grievances or other Union communication.

ARTICLE 22 HOSPITALIZATION AND LIFE INSURANCE

Section 1. The Employer shall provide health insurance coverage for employees and dependents after the first day of the month following the ninetieth (90th) day of employment, upon application by the employee. Such coverage shall be at the current program levels in effect January 1, 2014.

The County provides family vision and prescription drug coverage. The retail prescription co-pay for employees and dependents shall be \$8.00 for generic drugs, \$25.00 for formulary brand drugs and \$45.00 for non-formulary brand drugs. The mail order prescription

co-pay for employees and dependents shall be \$20.00 for generic drugs, \$60.00 for formulary brand drugs and \$100.00 for non-formulary brand drugs. All employees must use generic drugs if a generic drug is available unless a doctor's note is provided in advance requiring the use of a non-generic. Employees who have no doctor's note and who fail to use generic drugs when available will be responsible for the non-formulary brand premium share rate for prescriptions. Employees shall be required to use mail order for all prescriptions of three months or more. The office visit co-pay for a general practitioner shall be \$15.00 and \$20.00 for the Preferred Plus and Preferred Plan, respectively. The co-pay for a specialist visit shall be \$25.00 and \$30.00 for the Preferred Plus and Preferred Plan, respectively. "General practitioner" and "specialist" shall be defined in accordance with the terms of the insurance plan then in effect. An Emergency Room visit shall be \$75.00 unless the employee is admitted. Employees shall be responsible for covering the costs of applicable co-payments. The Employer will continue to provide basic individual dental coverage for bargaining unit members only. The employee may purchase family dental by agreeing to pay the difference between the cost of the family dental premium and the cost of the individual program.

Section 2. The Employer shall provide all bargaining unit members a term life insurance policy, equal to their salary, rounded off to the next highest thousand up to a maximum of \$50,000, and paid for by the Employer.

Section 3. The County will offer employees three choices of healthcare plans: 1. Preferred Plus Plan; 2. Preferred Plan; and a High Deductible Healthcare Plan. Employees who choose health insurance coverage shall be required to contribute to the cost of the premium as described hereinafter.

Effective July 1, 2014, or if not made available by that date then the date the County otherwise makes the plans available, employees shall make the following contributions to their health insurance coverage per two-week pay period:

	<u>Preferred Plus</u>	<u>Preferred</u>	<u>HDHP</u>
Single	\$53.36	\$17.42	\$9.63
Husband/Wife	\$102.00	\$36.58	\$20.23
Parent & Child(ren)	\$101.39	\$33.10	\$18.30
Family	\$140.00	\$54.00	\$29.86

For the remaining years of the Award, all participating active full-time employees shall contribute, on a pre-tax basis, a percentage of the York County's annual premium, based upon the percentages set forth below. Provided, that no tier of coverage shall exceed a forty dollar (\$40.00) increase in bi-weekly payroll deduction from 2014 to 2015 and thirty-five dollar (\$35.00) increase in bi-weekly payroll deduction from 2015 to 2016.

	<u>Preferred Plus</u>	<u>Preferred</u>	<u>HDHP</u>
2015	20%	7%	4%
2016	20%	8%	4%

Section 4. In order to reduce the cost to employees, employee contributions to the cost of health insurance will be handled by the Employer in a manner that is consistent with 26 United States Code Section 125.

Section 5. Employees hired on or after January 1, 1989, shall not be entitled to paid health and/or life insurance benefits at time of retirement. Those employees entitled to such retirement benefits prior to January 1, 1989, shall continue to be entitled to such coverage unless they are dismissed for cause under the terms of this Agreement. Pre-January 1, 1989, hires who retire after the effective date of this award and who are otherwise eligible for retirement healthcare benefits, shall be required to remain with the same health insurance coverage as the current members of the unit. For employees retiring after the effective date of this award, their health care contribution level shall be frozen as of the date of their retirement. If the health insurance coverage for current members of the unit changes in any other aspect, then the health insurance coverage for the retired employee shall also change automatically to match that of the active unit. Upon the retiree's eligibility for Medicare benefits, County-provided healthcare coverage shall become secondary.

Section 6. Employees who elect to remove themselves from the Employer's health insurance coverage programs shall submit proof of alternative coverage and shall not be entitled to be re-instated to the Employer's health insurance coverage for a period of 6 consecutive months after their request for voluntary removal thereof from said health insurance coverage. Employees who have removed themselves from the Employer's health insurance coverage shall receive a twelve hundred dollar (\$1,200.00) reimbursement payable in two (2) equal payments of six hundred dollars (\$600.00) in the payrolls following July 1 and December 31 of the year coverage is waived. The employee shall submit proof of alternative insurance each time prior to receiving payment. Employees who separate from their employment during the year are no longer eligible to receive any further "opt out" payments. This section shall become effective following execution of this Award. Said amount shall be pro-rated to the extent the opt-out is for less than a full year.

Section 7. There shall be a spousal surcharge in the amount of \$50.00 per month for any employee spouse covered by County healthcare and who has alternate insurance coverage available to him or her, i.e. through the spouse's employer.

Section 8. For the HDHP, the Employer shall make annual contributions to the HSA of employees covered by said plan in the amount of \$800.00 for the single plan and \$1,600.00 for the family plan. For the employee's first year in the HDHP, the Employer will contribute an additional \$200.00 for the single plan and \$400.00 for the family plan as an added one-time bonus. The payments (including the one-time bonus amount) shall be in split in two equal payments, payable January 1 and July 1 of each year.

Section 9. Employees who enroll in the HDHP for 2014 and/or 2015 are not eligible to change plans until January 1, 2016.

ARTICLE 23 RETIREMENT

The Employer agrees to provide the participating pension plan stipulated by County Code, unless improved by the Retirement Board. Employee participation shall be mandatory. Retirement at age seventy (70) shall be mandatory.

ARTICLE 24 GENERAL PROVISIONS

Section 1. There shall be no discrimination against employees because of race, color, creed, national origin, age, sex, marital status, union affiliation or political affiliation.

Section 2. There shall be no prohibition against such employees holding other employment in their free time. Such employees shall not be permitted to use patches, insignia, badges or other items which tends to identify them with the County of York or indicates that they have any authority therefrom. Employees may hold outside employment as a private security guard and may detain persons if so required by the outside employer on said employer's behalf, but may not serve as a police officer or constable, unless elected to the latter position.

Section 3. The Employer agrees to reimburse employees for substantiated travel on County business, while required to use their personal vehicles, at the mileage reimbursement rate utilized by the Federal Internal Revenue Service at the time.

Section 4. There shall be no solicitation of or distribution to employees for any purpose other than charitable contributions jointly agreed upon by Employer and Union employees.

Section 5. There shall no lockout or strike during the term of this agreement.

Section 6. There shall be a probationary period of one hundred eighty (180) days during which the Employer shall be vested with unequivocal control over new employees. After ninety (90) days of employment, employee shall begin to accrue seniority retroactive to date of employment and shall qualify for full insurance benefits pursuant to the terms of this agreement. The probationary period may only be extended by mutual consent of the County, the Union, and the employee.

Section 7. Female officers shall be provided with the same training opportunity as male officers.

Section 8. The Employer agrees to provide bargaining unit employees, on request, with PPD tests for tuberculosis, Hepatitis B inoculations, and annual flu shots.

Such inoculation shall be scheduled by the Employer, at the Employer's designated position or medical facility, and shall be done within the required time limits prescribed and recommended by the medical profession.

New employees will be required to take a pre-employment PPD test and all employees will undergo mandatory PPD testing annually.

Furthermore, the Employer may require bargaining unit members to test for AIDS in the event the Employer feels the employee through his employment and duties thereof may have been subjected to the conditions that could reasonably place the employee in a situation of potential contact with AIDS Virus.

The Employer and the Union agree to establish a joint committee for the purpose of meeting and discussing criteria and policy regarding AIDS prevention and safety.

Section 9. All officers shall receive the required training necessary for successfully performing their jobs as outlined in the YCP operations manual. All training sessions shall be documented in writing, with copies to the individual employee and his/her personnel file.

Section 10. The Employer agrees to publish the qualifications for CERT certification, subject to the Employer's managerial right to modify, change or eliminate any or all qualifications at any time.

CERT members shall be reimbursed for their reasonable expenditures for specialized equipment, including but not necessarily limited to: weapons and uniforms. This reimbursement will be made upon presentation of valid receipts and shall not be deducted from the uniform allowance. Expenditures in excess of fifty dollars (\$50.00) must be pre-approved by the Deputy Warden.

CERT members shall receive a \$.50 per hour stipend in addition to their normal base pay for their specialized services and for carrying beepers. Off duty CERT members are not on call but may voluntarily respond to beeper messages.

An employee suspended from CERT for disciplinary reasons will be reinstated if the Employer decides to reinstate him or her.

Section 11. Any area where inmates have ingress or egress to the secured perimeter of the prison shall be equipped with a functioning metal detector.

ARTICLE 25 UNIFORMS

Section 1. All Correctional Officers will be required to wear a specific uniform while pursuing their duties.

Section 2. From January 1, 2014 through June 30, 2014, Correctional Officers will be reimbursed for the cost of uniforms up to \$500 that are purchased during said time period upon presentation of valid receipts. Officers have through June 30, 2014 to purchase items and submit receipts for reimbursement.

On July 1, 2014, employees hired between January 1, 2014 and June 30, 2014 will receive an additional \$500 as a uniform allowance. All other Correctional Officers will receive an additional \$150 as a uniform allowance.

Section 3. *New Hires.* Effective July 1, 2014, new hires will receive a \$1,000 uniform allowance in the form of two semi-annual payments of \$500 payable on the date of hire and the following January 2 or July 1, whichever comes first. Thereafter, the new hire will be subject to the uniform allowance set forth below.

Section 4. Effective January 1, 2015, Correctional Officers, except those receiving payments as New Hires under Section 3 above, will receive \$650 per calendar year as a uniform allowance. The yearly uniform allowance shall be paid in two equal payments of \$325, payable on January 2 and July 1 of the year.

Section 5. Because receipts are no longer required effective July 1, 2014, the uniform allowance shall be payable by separate check, subject to withholding tax by the Employer, on the dates specified. Depending upon items purchased with this allowance, the allowance, or portions thereof, may or may not be tax exempt.

Section 6. Employees are held responsible to clean and maintain their uniform. Failure to do so will result in disciplinary action.

Section 7. Employees shall keep their facial hair groomed to no longer than ½ inch in length.

ARTICLE 26 SUCCESSORS

Section 1. This Agreement shall be binding upon the parties hereto, and the heirs, executors, administrators, successors, and assignees of each.

ARTICLE 27 SAVINGS CLAUSE

Section 1. Should any Article, Section, or Portion thereof, of this Agreement be held unlawful and unenforceable by any court of competent jurisdiction, or by Federal Executive Order, such decision shall apply only to the specific Article, Section, or Portion thereof directly specified in the decision, upon the issuance of such a decision, the parties agree immediately to negotiate a substitute for the invalidated Article, Section, or Portion thereof.

ARTICLE 28 CREDIT UNION

Section 1. The Employer agrees to deduct from each pay for New Cumberland Federal Credit Union for any employees who qualify and who authorize such deduction in writing. The amount to be deducted shall be certified to the Employer by the employee. The Employer agrees to forward said deductions to the involved Credit Union no later than the tenth (10th) day of the succeeding month, after such deductions were made.

Section 2. All employees shall be subject to mandatory direct deposit of their paychecks through a banking institution of their choice.

ARTICLE 29 SAFETY COMMITTEE

It is agreed that there will be a Safety Committee formed which will be comprised of an equal number of union and management members, for the purpose of meeting and discussing safety/security problems which cause undue risk to prison employees.

In the event that problems brought to this committee cannot be resolved by mutual agreement, the issue will be referred to a state mediator who will act in an advisory capacity. If the matter remains unresolved, it shall be subject to the grievance process.

ARTICLE 30 TERM OF AGREEMENT

This Agreement shall be effective on January 1, 2013 and will continue in full force through December 31, 2016. It shall automatically be renewed from year to year thereafter, unless either party shall notify the other in writing by such time as would permit the parties to comply with the collective bargaining schedule established under the Public Employee Relations Act.

It is understood that the signatures of the arbitrators attest to the fact that the terms and conditions of employment established by this Award have been agreed upon by a majority of the board of arbitrators on each item, even though agreement may not be unanimous on each item. This panel of arbitrators shall hold jurisdiction for ninety (90) days following the final dated signature below.

Debra K. Wallet
Debra K. Wallet, Esq., Chair

March 3, 2014
Date

Ronald T. Tomasko
Ronald T. Tomasko, Esq., for the Union

03/03/2014
Date

Cory A. Iannacone
Cory A. Iannacone, Esq., for the County

03/03/2014
Date

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Under the Administration of the
Pennsylvania Labor Relations Board
COMMONWEALTH OF PENNSYLVANIA

In the MATTER OF THE ARBITRATION BETWEEN:

TEAMSTERS LOCAL UNION 776	:	
	:	ACT 195 Interest Arbitration
	:	
and	:	PLRB Case No. PERA-A-16-216-E
	:	
	:	(Prison Guards; Nonprofessionals)
YORK COUNTY	:	

PANEL OF ARBITRATORS

Ira H. Weinstock, Esquire
Union-Appointed Arbitrator

Cory A. Iannacone, Esquire
County-Appointed Arbitrator

Mary Theresa Metzler, Esquire
Neutral Arbitrator and Panel Chair

INTRODUCTION

York County ("County" or "Employer") and the Teamsters Local Union 776 ("Union") are parties to an Interest Arbitration Award covering a bargaining unit comprised of nonprofessional prison Correctional Officers employed by the County of York, Pennsylvania, as designated in the Pennsylvania Labor Relations Board Order of Certification, dated October 30, 1975. That Award had an expiration date of December 31, 2016. The parties complied with their bargaining obligations under the Pennsylvania Public Employee Relations Act, Act of July 23, 1970, P.L. 563, No. 195, *as amended*, 43 P.S. § 1101.101 *et. seq.* ("Act 195"). Following negotiations and mediation, the parties reached an impasse and elected to proceed to interest arbitration. The undersigned arbitrators were duly established as the Panel of Arbitrators ("Panel") pursuant to the procedures set forth in Act 195.

The Panel acknowledges that the timing requirements contained in Act 195 were either appropriately met, or the parties agreed to waive those time limits. Both parties preserved their respective issues in dispute, and neither party raised any procedural objection to the arbitration or the arbitration process. The parties agree that there are no procedural infirmities to the appointment of the Panel, the conduct of the hearings or executive sessions, or to the issuance of this Act 195 Interest Arbitration Award.

Subsequent to due notice, hearings were conducted in this matter on February 15, March 23, and June 14, 2017 at the Prison facility in York, PA. At those hearings, both parties were afforded a full and fair opportunity to present testimony, examine and cross-examine witnesses, introduce documentary evidence, and offer arguments in support of their respective positions. Thereafter, the Panel met in numerous Executive Sessions to consider the issues

placed before the Panel. There was further discussion of the issues among the Arbitrators via email correspondence and conference calls.

The Panel was presented with the task of balancing the financial concerns of the County and a desire to fairly compensate the employees, who handle difficult and important work related to the operation of the York County Prison. The Panel spent a considerable amount of time discussing the County's proposed changes to the pension formula. A majority of the Panel concluded that no changes to the pension formula would be made in this Award. However, a majority of the Panel did conclude that changes would be made to the inclusion of accrued vacation and sick leave in the employees' retirement calculation, as set forth in the below Award.

In reaching the following Award, the Panel considered the testimony, documents, and arguments by both parties on all proposals presented. While neither parties' proposals were adopted in full, the Panel engaged in thorough discussions of the various proposals before reaching this Award. Moreover, the inclusion of any provision in this Award does not mean that it was unanimously agreed to by all members of the Panel. Instead, each provision has been agreed to by a majority of the Panel and is fully binding. Like any process resolving a dispute, the Award contains compromises by both parties.

The following changes in wages and terms and conditions of employment, have been agreed upon by the majority of Arbitrators and shall be implemented by the parties. The provisions of this Award shall be effective upon the date this Award is signed by the Neutral Arbitrator and Panel Chair, unless otherwise specified below:

INTEREST ARBITRATION AWARD

1. TERM OF AGREEMENT (Article 30):

The term of this Award shall be from January 1, 2017 through December 31, 2020.

2. MANAGEMENT RIGHTS (Article 3):

Current Section 3 of Article 3, regarding Section 1620 of the County Code, shall be deleted in its entirety.

3. HOURS OF WORK (Article 5):

Section 4 of Article 5 shall be revised to read as follows:

There will be no docking of pay if employee is less than six (6) minutes late. If any employee is late more than six (6) minutes, the pay will be docked to the nearest tenth of the hour. Employees shall be considered on time for work if they are at their assigned post at the designated starting time. Employees who, because of circumstances within the Prison, are unable to be at their post at the designated starting time shall, nonetheless, be considered on time.

Any staff member who has not contacted the Call Off Line within fifteen minutes after the start of the shift will be considered a No Show/No Call. If employees contact the Call Off Line between the start of the shift and fifteen minutes later, employees must be clocked in within one hour of the scheduled start of their shift. It is not the responsibility of the Employer to contact staff members who fail to report for their shifts. In addition, staff members may also contact the Control Center; however, that shall not

relieve the staff member of his/her obligation to contact the Call Off Line as set forth in this paragraph.

4. MEAL PERIODS (Article 6):

- (a) Revise Section 1 of Article 6 to read as follows:

All Correctional Officers shall be granted a one-half (1/2) hour meal period and meal with pay, which shall be part of their shift. Under normal circumstances, this meal will be served within four (4) hours from the start of the shift, with the exception of the evening shift and midnight shift, in which case the meal period shall start no earlier than one (1) hour after the start time of said shift. Employees shall be allowed to exit the building during their lunch period but cannot leave the premises of the York County Prison.

- (b) Section 5 of Article 6 shall be revised to read as follows:

The staff lounge shall be available to staff twenty-four (24) hours a day for purposes of having access to beverages and vending machines available in the lounge. Other than meal periods, staff must first obtain approval from a supervisor prior to visiting the lounge. Nothing in this section shall limit the Employer's management rights with respect to the staff, including but not limited to the right to supervise and discipline employees for just cause for violation of work rules in connection with their use of the lounge.

- (c) Add a new Section 6 to Article 6, as follows:

Correctional Officers assigned to hospital duties, on any shift, shall be relieved for a one-half hour meal period, which shall be part of their shift; provided, however, the meal times set forth above in Section 1 shall not apply.

5. HOLIDAYS AND PERSONAL DAYS (Article 7):

- (a) Delete the current last sentence of section 1 of Article 7 and replace with the following language:

Easter Sunday is not one of the recognized and observed paid holidays. However, employees who work on Easter Sunday are entitled to be paid time and one-half (1 ½) their regular hourly rate of pay for all hours worked on that day. For purposes of calculating an employee's weekly overtime, the hours worked on Easter Sunday will only be counted as straight time hours. The extra one-half time paid for hours worked on Easter Sunday will not be included in the weekly overtime computation.

- (b) Revise Section 7 of Article 7 to read as follows:

Personal Leave Days: Bargaining unit members earn one personal leave day as of January 1 each contract year, and a second personal leave day as of July 1 of each contract year, for a total of two (2) personal leave days/year. Bargaining unit members are entitled to utilize both of those personal leave days effective January 1 of each contract year. However, a bargaining unit member who utilizes the second personal leave day prior to July 1, thereby utilizing anticipated personal leave, and who then leaves employment within the bargaining unit, shall be required to reimburse the County for those days used and not earned in accordance with the 1/1 and 7/1 dates. In the event the employee fails to reimburse the County as indicated above prior to receipt of their final pay, said time shall be deducted from accrued vacation time, if available, or wages involving the last pay if available, otherwise the amount shall be deducted from the employee's retirement contribution refund, or retirement annuity payments if employee is eligible.

Any personal leave days carried in excess of 2 shall be paid to the employee on the first pay period after January 1.

For scheduling purposes, personal leave days shall be considered as vacation days.

Probationary employees shall be entitled to use one (1) of their personal leave days during their initial ninety (90) calendar days of employment, subject to the repayment provisions provided for in this Section.

6. VACATION (Article 8):

- (a) Revise Section 1 of Article 8 to add the following language:

Employees shall be entitled to use vacation in half (1/2) day increments subject to management approval and limitations provided in Section 5 of this Article. Requests for half day increments must be made during normal business hours of the business office.

- (b) Revise Section 7 of Article 8 to add the following sentences:

For all new employees hired after the effective date of this Award, payments of accrued vacation will not be counted towards the employee's retirement calculation. For all current employees, payments of accrued vacation will not be counted towards the employee's retirement calculation, but this change will not become effective for those employees until January 1, 2021.

7. SICK LEAVE (Article 9):

- (a) Revise Section 7 of Article 9 to include the following sentences:

For all new employees hired after the effective date of this Award, payments of accrued sick leave will not be counted towards the employee's retirement calculation. For all current employees, payments of accrued sick leave will not be counted towards the employee's retirement calculation, but this change will not become effective for those employees until January 1, 2021.

(b) The following language shall be added to Section 4 of Article 9:

An employee shall not be permitted to use an emergency day, as described above in this Section, on New Year's Day, Thanksgiving Day, or Christmas Day. The only exception will be in the extraordinary situation where the employee experiences a legitimate medical emergency, or other similarly serious emergency, which is verified and documented to the Employer.

(c) Revise Section 9 of Article 9 to provide:

It is recognized by the Employer and Union that sick leave was established to protect employees from loss of income during an illness and was never intended to be used as personal leave to be taken at an employee's convenience, that abuse of sick leave is unfair to employees who only use sick leave as it was intended, and that abuse creates additional cost to the County. Therefore, the following rules will govern the use of sick leave.

1. Employees with a documented life threatening illness will not be given an "occurrence" for non-paid days off, provided they have a doctor's excuse for the absence.
2. Any other non-compensatory time off, as calculated by a rolling twelve (12) month period, other than a leave of absence as per Article 13 or approved time off under the FMLA, will be counted as an occurrence according to the schedule set forth below. The twelve (12) month period is measured backward from the date an employee uses any FMLA leave.

Absences

One or more consecutive days
Absent, no call

Occurrences

1
1 ½

Written Warning
Two Day Suspension
Subject to Termination

Late/Leave Early

Arrive Late/No Call
Arrive Late/With Call

Occurrences

1
½

Leave Early*	½
Leave Early prior to 4 hours worked*	1
First Occurrence	Written Warning
Second Occurrence	Two day suspension
Third Occurrence	Subject to termination

*The employee must provide a doctor's note when leaving early and using sick time for their absence and therefore, will not be charged with an occurrence.

Note: The employee must receive notification in writing whenever a half or a whole occurrence is issued.

The Employer may refuse to honor a claim for sick leave if it has reason to believe the absence in question was not the result of a legitimate illness. If the Employer refuses to honor a claim for sick leave, discipline, as listed above, may be administered. If, on two occasions in any one calendar year, an employee has claimed sick leave in conjunction with relief days, holidays or vacations, the third or more occasion of an attempt to utilize sick leave may be cause for denial of sick leave and may result in discipline, even though the employee in question had unused sick days. An employee who presents to the Employer written evidence, from a licensed medical professional, that he or she was examined by the licensed medical professional in conjunction with the illness which prompted the third (or more) absence, and which substantiates the need for such absence, shall be entitled to use available sick leave. The Employer may not discipline the employee for having so utilized sick leave. Any attempt by an employee, just-described, to utilize sick leave, for any reason, within a period of six months subsequent to the third (or more) use, must be accompanied by a licensed medical professional's note. If an employee provides a note from a licensed medical professional showing that the employee was seen by a licensed medical professional on the date in question, and in connection with an unscheduled day off, it does not count as a conjunction day. This will not serve to diminish the Employer's right, as set forth above in the first sentence of this paragraph, to refuse a claim for sick leave.

8. OVERTIME (Article 14):

(a) Revise the language of Section 3 of Article 14 to read:

Overtime work shall be assigned as far as practicable to employees within their respective job classifications. If necessary, the Employer may assign overtime to full-time Correctional Officers prior to awarding overtime to part-time Correctional Officers.

(b) Add the following language to Section 5 of Article 14:

All overtime complaint forms must be verified and signed off by a Union Steward.

9. EARNINGS (Article 15):

(a) The wages reflected in the chart below are retroactive to the dates specified therein:

<u>Years of Service</u>	<u>1/1/17</u>	<u>1/1/18</u>	<u>1/1/19</u>	<u>1/1/20</u>
0-4 years	\$23.00	\$23.60	\$24.20	\$24.80
5-9 years	\$24.44	\$25.04	\$25.84	\$26.64
10-14 years	\$25.93	\$26.63	\$27.43	\$28.23
15-20 years	\$27.86	\$28.36	\$29.16	\$29.96
20+ years	\$28.75	\$29.25	\$30.05	\$30.85

Retroactive to January 1, 2017, part-time employees shall be compensated at the rate of \$20.10/hour. Effective January 1, 2019, part-time employees shall be compensated at the rate of \$21.10/hour for the term of the Award.

(b) The retroactive wage increases set forth above will be paid to all employees who have retired, transferred or resigned. Employees who were terminated for cause or who resigned in lieu of termination will not be eligible for the retroactive wage increases.

(c) The County shall make payment for the retroactive wage increases within sixty (60) days after issuance of the Award.

10. DISCHARGE, DEMOTION, SUSPENSION AND DISCIPLINE (Article 18):

The Panel directs the parties to form a committee, composed of both labor and management representatives, for the purpose of engaging in good faith negotiations over a revised Section 4 of Article 18 (Disciplinary Table). The parties will conduct meetings over the course of the next ninety (90) calendar days for this purpose.

11. SENIORITY AND VACANCIES (Article 19):

A new Section 6 will be added to Article 19, as follows:

Part-time employees shall not accrue seniority on the full-time roster. Part-time seniority shall be used to bid on full-time positions. When a part-time employee converts to a full-time employee, his/her seniority date is the date the employee most recently attained full-time employment status.

12. HOSPITALIZATION AND LIFE INSURANCE (Article 22):

Article 22 shall be revised to read as follows:

Section 1. The Employer shall provide health insurance coverage, including medical, prescription, dental and vision insurance benefits, for employees and dependents on the first day of the month following sixty (60) calendar days after date of employment, upon application by the employee. Other benefits such as life insurance will become effective on the first day of the month following ninety (90) calendar days after date of employment.

Section 2. The County will offer employees three choices of healthcare plans: 1. Preferred Plus Plan; 2. Preferred Plan; and 3. High Deductible Healthcare Plan. Summary plan descriptions for the three (3) health care plans are attached to this Award as "Appendix A." Employees who choose health insurance coverage shall be required to contribute the following percentages of the County's premium. Any increased contribution amounts will become effective July 1, 2018. Employees will not be required to make increased premium contributions retroactively. Therefore, there will be no change or increase in the amount of premium contributions paid by employees from January 1, 2017 through June 30, 2018 for any of the health plans.

All participating active full-time employees shall contribute, on a pre-tax basis, a percentage of the County's annual premium, based on the percentages set forth below. Provided, however, that no tier of coverage shall exceed a thirty-five (\$35.00) increase in bi-weekly payroll deduction from 2016 to July 1, 2018; no tier of coverage shall exceed a thirty-five (\$35.00) increase in bi-weekly payroll deduction from July 1, 2018 to 2019; no tier of coverage shall exceed a thirty-five (\$35.00) increase in bi-weekly payroll deduction from 2019 to 2020. The dollar equivalents for the percentage health care premiums for 2018 are set forth in a chart, attached as "Appendix B" to this Award.

	Preferred Plus	Preferred	HDHP
2017	20%	8%	4%
2018	20%	8%	4%
2019	20%	9%	5%
2020	20%	10%	5%

Any increased co-payments will go into effect as of July 1, 2018 and will not be retroactive.

	General Practitioner Office Visit			Specialist Office Visit		
	Preferred Plus	Preferred	HDHP	Preferred Plus	Preferred	HDHP
2017	\$15.00	\$20.00	20% after deductible	\$25.00	\$30.00	20% after deductible
2018	\$20.00	\$25.00	20% after deductible	\$30.00	\$35.00	20% after deductible
2019	\$20.00	\$25.00	20% after deductible	\$30.00	\$35.00	20% after deductible
2020	\$20.00	\$25.00	20% after deductible	\$30.00	\$35.00	20% after deductible

"General practitioner" and "specialist" shall be defined in accordance with the terms of the insurance plan then in effect.

	Emergency Room Visit			Urgent Care Visit		
	Preferred Plus*	Preferred*	HDHP	Preferred Plus	Preferred	HDHP
2017	\$75.00	\$75.00	20% after deductible	\$15.00	\$20.00	20% after deductible
2018	\$100.00	\$100.00	20% after deductible	\$20.00	\$25.00	20% after deductible
2019	\$125.00	\$125.00	20% after deductible	\$20.00	\$25.00	20% after deductible
2020	\$125.00	\$125.00	20% after deductible	\$20.00	\$25.00	20% after deductible

*If the employee is admitted to the hospital, there is no co-payment.

Employees shall be responsible for covering the costs of applicable co-payments.

Section 3. The County provides prescription drug coverage. The prescription co-pays for employees and dependents shall be as outlined below. Note: Employees enrolled in the HDHP plan, deductible amounts listed are after the deductible is reached.

Retail Pharmacy Co-Pays (30 day or less supply):			
	Generic	Formulary	Non-Formulary
2017	\$8.00	\$25.00	\$45.00
2018	\$10.00	\$30.00	\$45.00
2019	\$10.00	\$30.00	\$45.00
2020	\$10.00	\$30.00	\$45.00

Mail-Order Pharmacy Co-Pays (90 day supply):			
	Generic	Formula	Non-Formulary
2017	\$20.00	\$60.00	\$100.00
2018	\$25.00	\$70.00	\$100.00
2019	\$25.00	\$70.00	\$100.00
2020	\$30.00	\$75.00	\$110.00

Specialty Retail Pharmacy Co-Pays (30 day or less supply):			
	Generic	Formula	Non-Formulary
2017	20% - \$10 min/\$50 max	30% - \$30 min/\$100 max	40% - \$50 min/\$150 max
2018	20% - \$10 min/\$50 max	30% - \$30 min/\$100 max	40% - \$50 min/\$150 max
2019	20% - \$10 min/\$50 max	30% - \$30 min/\$100 max	40% - \$50 min/\$150 max
2020	20% - \$15 min/\$65 max	30% - \$40 min/\$110 max	40% - \$60 min/\$200 max

Specialty Mail-Order Pharmacy Co-Pays (90 day supply):			
	Generic	Formula	Non-Formulary
2017	20% - \$25 min/\$125 max	30% - \$70 min/\$250 max	40% - \$100 min/\$350 max
2018	20% - \$25 min/\$125 max	30% - \$70 min/\$250 max	40% - \$100 min/\$350 max
2019	20% - \$25 min/\$125 max	30% - \$70 min/\$250 max	40% - \$100 min/\$350 max
2020	20% - \$30 min/\$135 max	30% - \$80 min/\$260 max	40% - \$110 min/\$400 max

All employees must use generic drugs if a generic drug is available unless a doctor's note is provided in advance requiring the use of a non-generic. Employees who have no doctor's note and who fail to use generic drugs when available will be responsible for the non-formulary brand premium share rate for prescriptions. Employees shall be

required to use mail order for all prescriptions of three months or more. Employees shall be responsible for covering the costs of applicable co-payments.

Section 4. The Employer will continue to provide family vision coverage. The Employer will continue to provide basic individual dental coverage for bargaining unit members only. The employee may purchase family dental by agreeing to pay the difference between the cost of the family dental premium and the cost of the individual program.

Section 5. The Employer shall provide all bargaining unit members a term life maximum of \$50,000, and paid for by the Employer.

Section 6. In order to reduce the cost to employees, employee contributions to the cost of health insurance will be handled by the Employer in a manner that is consistent with 26 United States Code Section 125.

Section 7. Employees hired on or after January 1, 1989, shall not be entitled to paid health and/or life insurance benefits at time of retirement. Those employees entitled to such retirement benefits prior to January 1, 1989, shall continue to be entitled to such coverage unless they are dismissed for cause under the terms of this Agreement. Pre-January 1, 1989, hires who retire after the effective date of this award and who are otherwise eligible for retirement healthcare benefits, shall be required to remain with the same health insurance coverage as the current members of the unit. For employees retiring after the effective date of this award, their health care contribution level shall be frozen as of the date of their retirement. If the health insurance coverage for current members of the unit changes in any other aspect, then the health insurance coverage for the retired employee shall also change automatically to match that of the active unit. Upon the retiree's eligibility for Medicare benefits, County-provided healthcare coverage shall become secondary.

Section 8. Employees who elect to remove themselves from the Employer's health insurance coverage programs shall submit proof of alternative coverage and shall not be entitled to be reinstated to the Employer's health insurance coverage for a period of 6 consecutive months after their request for voluntary removal thereof from said health insurance coverage. Employees who have removed themselves from the Employer's health insurance coverage shall receive a twelve hundred dollar (\$1,200.00) reimbursement payable in two (2) equal payments of six hundred dollars (\$600.00) in the payrolls following July 1 and December 31 of the year coverage is waived. The employee shall submit proof of alternate insurance each time prior to receiving payment. Employees who separate from their employment during the year are no longer eligible to receive any further "opt-out" payments. This section shall become effective following execution of this Award. Said amount shall be pro-rated to the extent the opt-out is for less than a full year.

Section 9. There shall be a spousal surcharge in the amount of \$50.00 per month for any employee spouse covered by County healthcare and who has alternate insurance coverage available to him or her, i.e. through the spouse's employer.

Section 10. For the HDHP, the Employer shall make annual contributions to the HSA of employees covered by said plan in the amount of \$800.00 for the single plan and \$1600.00 for any other tier of coverage. For the employee's first year in the HDHP, the Employer will contribute an additional \$200.00 for the single plan and \$400.00 for any other tier of coverage as an added one-time bonus. These funds will be distributed in one payment in January of each year the employee is enrolled in the HDHP.

Section 11. Employees who enroll in the HDHP for 2017 and/or 2018 are not eligible to change plans until January 1, 2019. Employees who enroll in the HDHP for 2019 and/or 2020 are not eligible to change plans until January 1, 2021.

13. GENERAL PROVISIONS (Article 24):

(a) Revise Section 6 of Article 24 to read as follows:

There shall be a probationary period of one hundred eighty (180) days during which the Employer shall be vested with unequivocal control over new employees. After ninety (90) days of employment, employee shall begin to accrue seniority retroactive to date of employment. Employees' eligibility for various benefits will be in accordance with the terms of this agreement. The probationary period may only be extended by mutual consent of the County, the Union, and the employee.

(b) Revise Section 10 of Article 24 to delete the reference to carrying beepers and

revise the following sentence accordingly:

Off duty CERT members are not on call but may voluntarily respond to emergency calls.

14. UNIFORMS (Article 25):

The current language of Section 5 of Article 25 will be deleted and replaced with the following:

Part-time Correctional Officers, except those receiving payments as New Hires under Section 3 above, will receive \$250 per calendar year as a uniform allowance. The yearly uniform allowance shall be paid in two (2) equal payments of \$125.

Upon transfer from a part-time to a full-time position, the employee will not be entitled to the New Hire allowance provided under Section 3, or any additional uniform allowance at that time. The employee will be eligible at the next January 2 or July 1, whichever comes first, under Section 4 above.

15. CREDIT UNION (Article 28):

Revise Section 1 of Article 28 to delete the specific reference to "New Cumberland Credit Union."

16. SERGEANT'S POSITION (New Article):

The parties have negotiated a side letter, dated March 6, 2018 from Warden Clair Doll to Timothy Turek, Teamsters Business Agent, relating to the new position of Sergeants. The following is only a summary of the side letter; the terms and conditions of employment set forth in that negotiated side letter will prevail:

- (a) Thirty-four (34) Corrections Officer positions will be converted to Sergeant positions. (The parties do not intend that this language will be viewed or interpreted as a guarantee on the number of sergeant positions in the future, or any kind of "minimum manning" provision.)
- (b) These thirty-four (34) Sergeant positions will remain in the bargaining unit. (The parties do not intend that this language will be viewed or interpreted as a guarantee on the number of sergeant positions in the future, or any kind of "minimum manning" provision.)
- (c) Sergeants will work eight (8) hour shifts and the shifts will be the same shifts as currently assigned.
- (d) Sergeants are considered "lead workers" and do not possess authority to discipline employees.
- (e) Post assignments for the Sergeants will be as determined by management.
- (f) Employees will be promoted to the Sergeant position based on ability and seniority. Seniority will be considered in the same manner as with the hiring of Records Officers; meaning, seniority is the deciding factor when two Correctional Officers have the same qualifications and interviewed equally. The job description for the Sergeant position sets forth more details regarding eligibility for promotion to the Sergeant position.
- (g) Interviews will be conducted using a panel of County managers and a Union Representative not employed by York County Prison. The panel will consist of an

HR Representative, Unit Manager/Lieutenant and Union Representative. Aside from the essential requirements, interested staff will only be considered if they have no active suspensions.

- (h) Sergeants will receive a one dollar (\$1.00) increase in their current pay rate; specifically, in the same manner as CERT members are compensated for their work.
- (i) CERT members who are promoted to the Sergeant position must resign from CERT.
- (j) Sergeants will serve a ninety (90) day probationary period during which either management, or the employee, may request that the employee return to his/her former position on the same shift and days off as previously held.
- (k) Sergeants will remain in the regular overtime rotation. If a Sergeant vacancy occurs due to planned or unplanned time off, Correctional Officer overtime will be offered, if necessary, and the most senior/qualified staff member that is interested on shift will be able to fill in the Sergeant role. If a Sergeant fills in as a Correctional Officer, he/she will be paid his/her regular rate of pay as a Correctional Officer (not to include the \$1.00/hour Sergeant's pay).

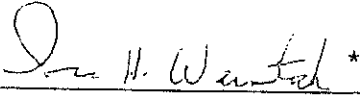
CONCLUSION


The Panel has deliberated over every proposal raised by both parties and considered alternatives as well as compromises designed to effectuate a contract as required by Act 195. In the end, the provisions set forth here represent concessions and benefits to both sides which are the majority judgment of the Panel even though the proposals may have been objected to, modified or changed from their original form. All remaining terms and conditions of employment not modified by this Arbitration Award shall remain "as is." All proposals of the parties not included in this Arbitration Award or adopted by the parties shall be deemed denied.

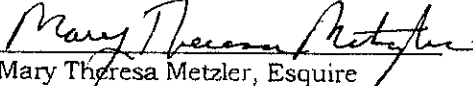
It is understood that the signatures of the Arbitrators below attest to the fact that these contractual changes represent the majority opinion and Award on each issue by the members of the Arbitration Panel, even though agreement may not be unanimous on each issue.

The Award will become effective as of the date set forth below the Neutral Arbitrator and Panel Chair's signature, unless another date is specified above.

The Panel retains jurisdiction to resolve any questions regarding proper implementation of the Award for a period not to exceed four (4) months.


Ira H. Weinstock, Esquire
Union-Appointed Arbitrator
Date: 5 22 -18


Cory A. Iannacone, Esquire
County-Appointed Arbitrator
Date: 05/22/2018

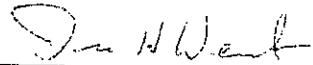

Mary Theresa Metzler, Esquire
Neutral Arbitrator and Panel Chair
Date: May 22, 2018

*See attached Concurring Opinion of Union Arbitrator
**See attached Dissenting Opinion of County Arbitrator

CONCURRING OPINION OF UNION ARBITRATOR

I have agreed to the entire Award for the sake of reaching a Final Award. However, I would have granted higher wages to this bargaining unit and froze insurance premiums, but have agreed to the Award.

Dated: 5.22.18



IRA H. WEINSTOCK, Union Arbitrator

****Dissent of County-Appointed Arbitrator**

I respectfully dissent from the Award issued by the Panel of Arbitrators in the instant matter. I do not believe the Panel gave due consideration to the larger impact this Award will have on the County and the constituents which its Commissioners serve. The County provided a financial presentation during this arbitration process which made clear the exhaustive efforts the County has undertaken to maintain its AA bond rating while at the same time avoiding tax increases for the residents of York County.

One of the larger financial constraints facing the County was its pension system. The County provided a detailed financial presentation showing that it had one of the richest pension class systems within the Commonwealth (1/50) and had been facing a deficit in meeting its annual retirement contribution. In order to address that issue, the County created a second tier pension class of 1/80, which only applied to newly hired employees—with current employees being grandfathered into the richer 1/50 class tier.

The County provided a Supplemental Exhibit binder during its financial presentation, which provided a detailed background to the County's pension issue. Up until approximately 2003, the lowest class pension benefit available under the County Pension Law was 1/120, while the richest was 1/60. At that time, the County provided its employees with a 1/80 class benefit. In 2003, the County Pension Law was amended to create additional class options of 1/50 and 1/40. Sometime after the amendment to the Pension Law, but before the market crashed in 2008, the County not only adopted the 1/50 tier, but retroactively applied it to all its employees. Shortly thereafter, the market crashed. This is the exact same thing which occurred on the State level and which led to the State's pension crisis. Everyone, including the Union, agreed that in retrospect, the County should not have created the 1/50 class and retroactively applied it to all its employees. Despite acknowledging the issue, the Union failed to offer a resolution.


There was no justification for the Panel to not include the second pension class of 1/80 in this Award. It would have only applied to new hires; current employees would have remained under their same 1/50 pension tier. Including this second tier pension class would have addressed the County's financial concerns without any financial impact to current employees whatsoever.

Further exacerbating the County's financial struggles with its Pension, the majority of this Panel failed to immediately close off a loophole with employee pension calculations whereby employees would inflate their salary in a given year by buying back their sick leave and vacation time. The Pension Law clearly provides that sick leave and vacation time are not included in the definition of compensation for purposes of an employee's retirement calculation. The majority of this Panel, however, did not close off this loophole until 2021—thus leaving the County with two and one half (2 ½) years of financial liability on this issue.

Also left unaddressed by this Panel is the financial constraint caused by the County's increasing healthcare costs. The County made it clear at the arbitration that it was attempting to phase out the County's Preferred Plus healthcare plan in light of the Affordable Care Act's expected Excise

Tax on such "Cadillac Plans." The only way to phase out this archaic plan was to increase employee premium contributions while at the same time providing more affordable healthcare alternatives. The majority of this Panel did not do that. Instead, they kept the employee premium contributions at the same percentage for the Preferred Plus Plan, while increasing the percentages for the Preferred and HDHP Plans offered by the County—thus failing to provide employees with a true incentive to switch to an alternative plan before the Preferred Plus Plan becomes obsolete. In addition, the Panel should have locked out the Preferred Plus Plan for any new hires and anyone who left the plan, but failed to do so.

As a result of the foregoing, the County is now left with having to consider how to remain fiscally responsible during the term of this Award and beyond. It is my fear, that by failing to address the County's financial concerns raised during this hearing—including but not limited to pension, healthcare and wages—the County will be required to consider other means to address its financial constraints—possibly tax increases or cuts in spending.

 05/22/2018

Cory A. Iannacone

County-Appointed Arbitrator

Appendix A

Preferred Plus – Corrections Officers – Effective July 1, 2018

Benefit	In Network	Out of Network
General Provisions		
Benefit Period(1)	Contract Year	
Deductible (per benefit period)		
Individual	none	\$250
Family	none	\$500
Plan Pays – payment based on the plan allowance	100%	\$250 Common Accident
Out-of-Pocket Limit (Once met, plan pays 100% coinsurance for the rest of the benefit period)		80% after deductible
Individual	none	
Family	none	\$1,750
Total Maximum Out-of-Pocket (Includes deductible, coinsurance, copays and other qualified medical expenses, Network only) (2) Once met, the plan pays 100% of covered services for the rest of the benefit period.		\$3,500
Individual	\$4,400	not applicable
Family	\$8,800	not applicable
Office/Clinic/Urgent Care Visits		
Retail Clinic Visits & Virtual Visits	100% after \$20 copay	80% after deductible
Primary Care Provider Office Visits & Virtual Visits	100% after \$20 copay	80% after deductible
Specialist Office Visits & Virtual Visits	100% after \$30 copay	80% after deductible
Virtual Visit Originating Site Fee	100%	80% after deductible
Urgent Care Center Visits	100% after \$20 copay	80% after deductible
Telemedicine Services (3)	100%	not covered
Preventive Care (4)		
Routine Adult		
Physical Exams	100%	80% after deductible
Adult Immunizations	100%	80% after deductible
Routine Gynecological Exams, including a Pap Test	100%	80% after deductible
Mammograms, Annual Routine	100%	80% after deductible
Mammograms, Medically Necessary	100%	80% after deductible
Diagnostic Services and Procedures	100%	80% after deductible
Routine Pediatric		
Physical Exams	100%	80% after deductible
Pediatric Immunizations	100%	80% (deductible does not apply)
Diagnostic Services and Procedures	100%	80% after deductible
Emergency Services		
Emergency Room Services - Emergency	100% after \$100 copay (waived if admitted) Copay changes to \$125 effective 1/1/2019	
Emergency Room Services – Non-Emergency	80%	60% after deductible
Ambulance – Emergency and Non-Emergency	100%	100% (deductible does not apply)
Hospital and Medical / Surgical Expenses (including maternity)		
Hospital Inpatient	100%	80% after deductible
Hospital Outpatient	100%	80% after deductible
Maternity (non-preventive facility & professional services) including dependent daughter	100%	80% after deductible
Medical Care (including inpatient visits and consultations)/ Surgical Expenses – Excludes Neonatal Circumcision	100%	80% after deductible Anesthesia services pay at 100%
Therapy and Rehabilitation Services		
Physical Medicine	100%	80% after deductible
Respiratory Therapy	100%	80% after deductible
Speech Therapy	100%	80% after deductible
Occupational Therapy	100%	80% after deductible
Spinal Manipulations	100% after \$30 copay limit: \$500 maximum or 20 visits/benefit period	80% after deductible
Other Therapy Services (Cardiac Rehab, Infusion Therapy, Chemotherapy, Radiation Therapy and Dialysis)	100%	80% after deductible
Mental Health / Substance Abuse		

Benefit	In Network	Out of Network
Inpatient Mental Health Services	100%	80% after deductible
	limit: 30 days/benefit period	
Inpatient Detoxification / Rehabilitation	100%	80% after deductible
	Detoxification: 7 days/admission; 4 admissions/lifetime Rehabilitation: 30 days/benefit period; 90 days/lifetime	
Outpatient Mental Health Services (includes virtual behavioral health visits)	100%	80% after deductible
	limit: 20 visits/benefit period	
Outpatient Substance Abuse Services	100%	80% after deductible
	60 visits/benefit period; 120 visits/lifetime	
Other Services		
Allergy Extracts and Injections	100%	80% after deductible
Assisted Fertilization Procedures	not covered	not covered
Dental Services Related to Accidental Injury	100%	80% after deductible
Diagnostic Services		
Advanced Imaging (MRI, CAT, PET scan, etc.)	100%	100% (deductible does not apply)
Standard Imaging	100%	100% (deductible does not apply)
Diagnostic Medical	100%	100% (deductible does not apply)
Pathology/Laboratory	100%	100% (deductible does not apply)
Allergy Testing	100%	100% (deductible does not apply)
Durable Medical Equipment, Orthotics and Prosthetics	100%	100% (deductible does not apply)
Home Health Care	100%	80% after deductible
	limit: 100 visits/benefit period	
Hospice	100%	100% (deductible does not apply)
Infertility Counseling, Testing and Treatment (5)	100%	80% after deductible
	limit: \$2,500 per family contract/lifetime	
Private Duty Nursing	100%	80% after deductible
Skilled Nursing Facility Care	unlimited visits (excludes inpatient services)	80% after deductible
	100%	80% after deductible
	limit: 180 days/benefit period	
Transplant Services	100%	80% after deductible
Precertification Requirements (6)	Yes	Yes

This is not a contract. This benefits summary presents plan highlights only. Please refer to the policy/ plan documents, as limitations and exclusions apply. The policy/ plan documents control in the event of a conflict with this benefits summary.

- (1) Your group's benefit period is based on a Contract Year. The Contract Year is a consecutive 12-month period beginning on your employer's effective date. Contact your employer to determine the effective date applicable to your program.
- (2) The Network Total Maximum Out-of-Pocket (TMOOP) is mandated by the federal government. TMOOP must include deductible, coinsurance, copays, prescription drug cost share and any qualified medical expense.
- (3) Services are provided for acute care for minor illnesses. Services must be performed by a Highmark approved telemedicine provider. Virtual Behavioral Health visits provided by a Highmark approved telemedicine provider are eligible under the Outpatient Mental Health benefit.
- (4) Services are limited to those listed on the Highmark Preventive Schedule with enhancements (Women's Health Preventive Schedule may apply).
- (5) Treatment includes coverage for the correction of a physical or medical problem associated with infertility. Infertility drug therapy may or may not be covered depending on your group's prescription drug program.
- (6) Highmark Medical Management & Policy (MM&P) must be contacted prior to a planned inpatient admission or within 48 hours of an emergency or maternity-related inpatient admission. Be sure to verify that your provider is contacting MM&P for precertification. If this does not occur and it is later determined that all or part of the inpatient stay was not medically necessary or appropriate, you will be responsible for payment of any costs not covered.

Preferred – Corrections Officers – Effective July 1, 2018

Benefit	In Network	Out of Network
General Provisions		
Benefit Period(1)	Contract Year	
Deductible (per benefit period)		
Individual	\$500	\$500
Family	\$1000	\$1,000
Plan Pays – payment based on the plan allowance	\$500 Common Accident	\$500 Common Accident
Out-of-Pocket Limit (Once met, plan pays 100% coinsurance for the rest of the benefit period)	80% after deductible	60% after deductible
Individual		
Family	\$2,000	\$4,000
	\$4,000	\$8,000
Total Maximum Out-of-Pocket (Includes deductible, coinsurance, copays and other qualified medical expenses, Network only) (2) Once met, the plan pays 100% of covered services for the rest of the benefit period.		
Individual	\$4,400	not applicable
Family	\$8,800	not applicable
Office/Clinic/Urgent Care Visits		
Retail Clinic Visits & Virtual Visits	100% after \$25 copay	60% after deductible
Primary Care Provider Office Visits & Virtual Visits	100% after \$25 copay	60% after deductible
Specialist Office Visits & Virtual Visits	100% after \$35 copay	60% after deductible
Virtual Visit Originating Site Fee	80% after deductible	60% after deductible
Urgent Care Center Visits	100% after \$25 copay	60% after deductible
Telemedicine Services (3)	100% (deductible does not apply)	not covered
Preventive Care (4)		
Routine Adult		
Physical Exams	100% (deductible does not apply)	60% after deductible
Adult Immunizations	100% (deductible does not apply)	60% after deductible
Routine Gynecological Exams, including a Pap Test	100% (deductible does not apply)	60% (deductible does not apply)
Mammograms, Annual Routine	100% (deductible does not apply)	60% after deductible
Mammograms, Medically Necessary	100% (deductible does not apply)	60% after deductible
Diagnostic Services and Procedures	100% (deductible does not apply)	60% after deductible
Routine Pediatric		
Physical Exams	100% (deductible does not apply)	60% after deductible
Pediatric Immunizations	100% (deductible does not apply)	60% (deductible does not apply)
Diagnostic Services and Procedures	100% (deductible does not apply)	60% after deductible
Emergency Services		
Emergency Room Services - Emergency	100% after \$100 copay (waived if admitted) Copay changes to \$125 effective 1/1/2019	
Emergency Room Services – Non-Emergency	60% after deductible	40% after deductible
Ambulance – Emergency and Non-Emergency	80% after deductible	80% after deductible
Hospital and Medical / Surgical Expenses (including maternity)		
Hospital Inpatient	80% after deductible	60% after deductible
Hospital Outpatient	\$250 copay per inpatient admission	\$250 copay per inpatient admission
Maternity (non-preventive facility & professional services) including dependent daughter (Excludes Act 81)	80% after deductible	60% after deductible
Medical Care (including inpatient visits and consultations)/ Surgical Expenses – Excludes Neonatal Circumcision	\$250 copay per inpatient admission	\$250 copay per inpatient admission
	80% after deductible	60% after deductible
Therapy and Rehabilitation Services (one copay/provider/date of service)		
Physical Medicine	100% after \$35 copay	60% after deductible
Respiratory Therapy	80% after deductible	60% after deductible
Speech Therapy	100% after \$35 copay	60% after deductible
Occupational Therapy	100% after \$35 copay	60% after deductible
Spinal Manipulations	100% after \$35 copay	60% after deductible
	limit: \$500 maximum or 20 visits/benefit period	
Other Therapy Services (Cardiac Rehab, Infusion Therapy, Chemotherapy, Radiation Therapy and Dialysis)	80% after deductible	60% after deductible
Mental Health / Substance Abuse		

Benefit	In Network	Out of Network
Inpatient Mental Health Services	80% after deductible \$250 copay per inpatient admission limit: 30 days/benefit period	60% after deductible \$250 copay per inpatient admission
Inpatient Detoxification / Rehabilitation	80% after deductible \$250 copay per inpatient admission Detoxification: 7 days/admission; 4 admissions/lifetime Rehabilitation: 30 days/benefit period; 90 days/lifetime	60% after deductible \$250 copay per inpatient admission
Outpatient Mental Health Services (includes virtual behavioral health visits)	100% after \$35 copay limit: 20 visits/benefit period	60% after deductible
Outpatient Substance Abuse Services	100% after \$35 copay 60 visits/benefit period; 120 visits/lifetime	60% after deductible
Other Services		
Allergy Extracts and Injections	80% after deductible	60% after deductible
Assisted Fertilization Procedures	not covered	not covered
Dental Services Related to Accidental Injury	80% after deductible	60% after deductible
Diagnostic Services		
Advanced Imaging (MRI, CAT, PET scan, etc.)	80% after deductible	60% after deductible
Basic Diagnostic Services (standard imaging, diagnostic medical, lab/pathology, allergy testing)	80% after deductible	60% after deductible
Durable Medical Equipment, Orthotics and Prosthetics	80% after deductible	60% after deductible
Home Health Care	80% after deductible limit: 100 visits/benefit period	60% after deductible
Hospice	80% after deductible	80% after deductible
Infertility Counseling, Testing and Treatment (5)	80% after deductible limit: \$2500 per family contract/lifetime	60% after deductible
Private Duty Nursing (inpatient services excluded in visit limit)	80% after deductible	60% after deductible
Skilled Nursing Facility Care	80% after deductible \$250 copay per inpatient admission limit: 180 days/benefit period	60% after deductible \$250 copay per inpatient admission
Transplant Services	80% after deductible	60% after deductible
Precertification Requirements (6)	Yes	Yes

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- (1) Your group's benefit period is based on a Contract Year. The Contract Year is a consecutive 12-month period beginning on your employer's effective date. Contact your employer to determine the effective date applicable to your program.
- (2) The Network Total Maximum Out-of-Pocket (TMOOP) is mandated by the federal government. TMOOP must include deductible, coinsurance, copays, prescription drug cost share and any qualified medical expense.
- (3) Services are provided for acute care for minor illnesses. Services must be performed by a Highmark approved telemedicine provider. Virtual Behavioral Health visits provided by a Highmark approved telemedicine provider are eligible under the Outpatient Mental Health benefit.
- (4) Services are limited to those listed on the Highmark Preventive Schedule with enhancements (Women's Health Preventive Schedule may apply).
- (5) Treatment includes coverage for the correction of a physical or medical problem associated with infertility. Infertility drug therapy may or may not be covered depending on your group's prescription drug program.
- (6) Highmark Medical Management & Policy (MM&P) must be contacted prior to a planned inpatient admission or within 48 hours of an emergency or maternity-related inpatient admission. Be sure to verify that your provider is contacting MM&P for precertification. If this does not occur and it is later determined that all or part of the inpatient stay was not medically necessary or appropriate, you will be responsible for payment of any costs not covered.

Summary of Benefits

This Summary of Benefits outlines your covered services. More details can be found in the Covered Services section.

Benefits	Network	Out-of-Network
General Provisions		
The following are your PPO Blue program cost-sharing provisions which include your medical and prescription drug benefits		
Benefit Period¹	Contract Year	
Deductible (per benefit period)²		
Individual	\$2,000	\$4,000
Family	\$4,000	\$8,000
Plan Payment Level - Based on the plan allowance	80% after deductible until out-of-pocket limit is met; then 100%	60% after deductible until out-of-pocket limit is met; then 100%
Out-of-Pocket Limits³ Includes coinsurance. Once met, the plan payment level becomes 100%. See the section "How Your Benefits Are Applied" for exclusions/details		
Individual	\$2,500	\$12,500
Family	\$5,000	\$23,000
Total Maximum Out-of-Pocket Includes coinsurance, deductible and copayments, if applicable. See the section "How Your Benefits Are Applied" for exclusions/details		
Individual	\$6,250	None
Family	\$12,500	None
Lifetime Maximum (per member)	Unlimited	
Office/Clinic/Urgent Care Visits		
Retail Clinic Visits (including virtual visits)	80% after deductible	60% after deductible
Primary Care Physician Office Visits (including virtual visits)^{4,5}	80% after deductible	60% after deductible
Specialist Office Visits (including virtual visits)⁴	80% after deductible	60% after deductible
Virtual Visit Originating Site Fee⁴	80% after deductible	80% after deductible
Urgent Care Center Visits	80% after deductible	60% after deductible
Preventive Care Services⁶		
Adult		
Routine physical exams	100%; deductible does not apply	60% after deductible
Adult Immunizations	100%; deductible does not apply	60% after deductible
Diagnostic services and procedures	100%; deductible does not apply	60% after deductible
Routine gynecological exams, including a PAP Test	100%; deductible does not apply	60% after deductible
Mammograms		
Routine	100%; deductible does not apply	60% after deductible
Medically Necessary	80% after deductible	60% after deductible

Benefits	Network	Out-of-Network
Pediatric		
Routine physical exams	100%; deductible does not apply	80% after deductible
Pediatric Immunizations	100%; deductible does not apply	60%
Diagnostic services and procedures	100%; deductible does not apply	60% after deductible
Prescription Drugs - Preventive Covered Medications (Outpatient)	100%; deductible does not apply	Not Covered
Hospital and Medical/Surgical Expenses (including maternity)		
Hospital Services - Inpatient ^a	80% after deductible	60% after deductible
Hospital Services - Outpatient ^b	80% after deductible	60% after deductible
Maternity (non-preventive facility and professional services) Includes Dependent Daughters	80% after deductible	60% after deductible
Medical/Surgical Expenses (except office visits) Excludes Neonatal Circumcision	80% after deductible	60% after deductible
Gender Reassignment Surgery	80% after deductible	60% after deductible
Emergency Services		
Emergency Room Services	80% after deductible	Same as network services
Emergency Ambulance Service	80% after deductible	80% after network deductible
Non Emergency Ambulance Service	80% after deductible	80% after network deductible
Therapy and Rehabilitation Services		
Infusion Therapy	80% after deductible	60% after deductible
Occupational Therapy	80% after deductible	60% after deductible
Physical Medicine	80% after deductible	60% after deductible
Radiation Therapy	80% after deductible	60% after deductible
Respiratory Therapy	80% after deductible	60% after deductible
Speech Therapy	80% after deductible	60% after deductible
Spinal Manipulations	80% after deductible Limit \$500 Maximum of 20 visits/benefit period	60% after deductible Limit \$500 Maximum of 20 visits/benefit period
Other Therapy Services (Cardiac Rehabilitation, Chemotherapy, and Dialysis Treatment)	80% after deductible	60% after deductible
Mental Health/Substance Abuse Services		
Mental Health Care Services - Inpatient	80% after deductible	60% after deductible
Mental Health Care Services - Outpatient (including virtual visits)	80% after deductible	60% after deductible
Substance Abuse Services - Inpatient Detoxification	80% after deductible	60% after deductible
Substance Abuse Services - Inpatient Residential Treatment and Rehabilitation Services	80% after deductible	60% after deductible
Substance Abuse Services - Outpatient	80% after deductible	60% after deductible
Other Services		
Allergy Extracts and Injections	80% after deductible	60% after deductible
Assisted Fertilization Treatment	Not Covered	
Dental Services Related to Accidental Injury	Not Covered	
Diabetes Treatment	80% after deductible	60% after deductible

Benefits	Network	Out-of-Network
Diagnostic Services Advanced Imaging (MRI, CAT Scan, PET scan, etc.)	80% after deductible	60% after deductible
Basic Diagnostic Services • standard imaging • diagnostic medical • lab/pathology • allergy testing	80% after deductible	60% after deductible
Durable Medical Equipment	80% after deductible	60% after deductible
Enteral Foods	80% after deductible	60% after deductible
Home Infusion and Suite Infusion Therapy Services	80% after deductible	60% after deductible
Home Health Care	80% after deductible	60% after deductible
Hospice	Limit: 100 visits per benefit period	
Infertility Counseling, Testing and Treatment⁹	80% after deductible	60% after deductible
	80% after deductible	60% after deductible
	Combined Limit: \$2,500 per family per lifetime	
Orthotics	80% after deductible	60% after deductible
Private Duty Nursing	80% after deductible	60% after deductible
Prosthetics	80% after deductible	60% after deductible
Skilled Nursing Facility Care	80% after deductible	60% after deductible
	Limit: 180 days per benefit period	
Transplant Services	80% after deductible	60% after deductible
Prerecertification Requirements	Yes ¹⁰	
Condition Management	Case Management, Blues on Call, and Disease State Management	

Note: Certain benefits may be subject to day, visit, and/or hour limits. In connection with such benefits, all services you receive during a benefit period will reduce the remaining number of days, visits, and/or hours available under that benefit, regardless of whether you have satisfied your deductible.

- ¹ Your group's benefit period is based on a contract year. The contract year is a consecutive 12-month period beginning on January 1.
- ² The individual deductible only applies for a member with individual coverage. For a member with family coverage, the family deductible must be met by one or more members of the family before benefits will be paid.
- ³ The individual out-of-pocket limit only applies for a member with individual coverage. For a member with family coverage, the family out-of-pocket limit must be met by one or more members of the family before benefits are payable at 100%.
- ⁴ You may be responsible for a facility fee, clinic charge or similar fee or charge (in addition to any professional fees) if your office visit or service is provided at a hospital, facility provider, ancillary provider, retail clinic or urgent care center. The specialist virtual visit is subject to availability within your service area.
- ⁵ A physician whose practice is limited to family practice, general practice, internal medicine or pediatrics.
- ⁶ Services are limited to those on a predefined schedule. Gender, age and frequency limits may apply.
- ⁷ Other cost sharing provisions and/or limits may apply to specific benefits, i.e., physical medicine, therapies, diagnostic services, mental health/substance abuse visits.
- ⁸ For covered services rendered by a facility provider within the service area who has no contractual relationship with Highmark, the plan allowance will be 60% of the facility provider's billed charge for inpatient services and 40% of the facility provider's billed charge for outpatient services. For covered services rendered by an out-of-area provider, such services will be priced by the local Blue Cross Blue Shield plan and submitted to Highmark via BlueCard. The plan allowance would then be subject to the coinsurance percentage after your deductible, if any, has been satisfied.
- ⁹ If testing is required, cost sharing may apply as outlined under Diagnostic Services. Treatment includes coverage for the correction of a physical or medical problem associated with infertility. Infertility drug therapy may or may not be covered depending on your group's prescription drug program.
- ¹⁰ Highmark must be contacted prior to a planned inpatient admission or within 48 hours of an emergency inpatient admission. Some facility providers will contact Highmark and obtain prerecertification of the inpatient admission on your behalf. Be sure to verify that your

Appendix B

Healthcare Rates - Corrections Officers 26 pays/year)

Preferred Plus	2016			2017			2018 - Effective 7/1/2018		
	Monthly "Premium"	Per Pay Deduction		Monthly "Premium"	Per Pay Deduction		Monthly "Premium"	Per Pay Deduction	
Employee Only	\$ 709.55	\$ 65.50		\$ 763.48	\$ 65.50		\$ 801.65	\$ 74.00	
Employee + Spouse	\$ 1,490.05	\$ 137.54		\$ 1,603.29	\$ 137.54		\$ 1,683.45	\$ 155.40	
Employee + Child(ren)	\$ 1,348.14	\$ 124.44		\$ 1,450.60	\$ 124.44		\$ 1,523.13	\$ 140.60	
Family	\$ 2,199.59	\$ 203.04		\$ 2,366.76	\$ 203.04		\$ 2,485.10	\$ 229.39	
Spousal Surcharge **		\$ 25.00			\$ 25.00			\$ 25.00	
Premium Percentage									20.0%
Preferred									
Preferred	2016			2017			2018 - Effective 7/1/2018		
	Monthly "Premium"	Per Pay Deduction		Monthly "Premium"	Per Pay Deduction		Monthly "Premium"	Per Pay Deduction	
Employee Only	\$ 524.16	\$ 19.35		\$ 550.37	\$ 19.35		\$ 564.13	\$ 20.83	
Employee + Spouse	\$ 1,100.73	\$ 40.64		\$ 1,155.77	\$ 40.64		\$ 1,184.66	\$ 43.74	
Employee + Child(ren)	\$ 995.90	\$ 36.77		\$ 1,045.70	\$ 36.77		\$ 1,071.84	\$ 39.58	
Family	\$ 1,624.89	\$ 60.00		\$ 1,706.13	\$ 60.00		\$ 1,748.78	\$ 64.57	
Spousal Surcharge **		\$ 25.00			\$ 25.00			\$ 25.00	
Premium Percentage									8.0%
HDHP									
HDHP	2016			2017			2018 - Effective 7/1/2018		
	Monthly "Premium"	Per Pay Deduction		Monthly "Premium"	Per Pay Deduction		Monthly "Premium"	Per Pay Deduction	
Employee Only	\$ 553.10	\$ 10.21		\$ 575.22	\$ 10.21		\$ 575.22	\$ 10.62	
Employee + Spouse	\$ 1,161.50	\$ 21.44		\$ 1,207.96	\$ 21.44		\$ 1,207.96	\$ 22.30	
Employee + Child(ren)	\$ 1,050.89	\$ 19.40		\$ 1,092.93	\$ 19.40		\$ 1,092.93	\$ 20.18	
Family	\$ 1,714.60	\$ 31.65		\$ 1,783.18	\$ 31.65		\$ 1,783.18	\$ 32.92	
Spousal Surcharge **		\$ 25.00			\$ 25.00			\$ 25.00	
Premium Percentage									4.0%

** Spousal Surcharge will be taken from the first 2 pays of a month.

EXHIBIT B

**THE COMMONWEALTH OF PENNSYLVANIA
LABOR ARBITRATION TRIBUNAL**

IN THE MATTER OF ARBITRATION BETWEEN

TEAMSTERS LOCAL UNION No. 776	:	
	:	Grievance #64851
and	:	Marcial Baez - Termination
	:	Grievance #64853
YORK COUNTY (PRISON)	:	Graig Phillips - Termination

GRIEVANCE: The grievance alleges that
Grievants M. Baez and G. Phillips
were discharged without just
cause.

HEARING: December 12, 2018
York, PA

ARBITRATOR: John M. Skonier, Esq.

APPEARANCES

FOR THE UNION:

Ira H. Weinstock, Esq.

FOR THE COUNTY:

Cory A. Iannacone, Esq.

Procedural History

The undersigned was notified by letter of his selection by Teamsters Local Union No. 776 (Union) and York County (County, Prison or Employer) to hear and decide a matter then in dispute. Pursuant to due notice, the hearing was held on December 12, 2018, in York, Pennsylvania, at which time both parties were afforded a full opportunity to present testimony, examine and cross-examine witnesses, and introduce documentary evidence in support of their respective positions. Subsequent to the hearing, the parties submitted legal briefs in support of their respective positions. The matter is now ready for final resolution.

Background Facts

This case involves the discharges of Correctional Officers Marcial Baez (hereinafter "Grievant Baez") and Graig Phillips (hereinafter "Grievant Phillips"). Both were terminated from their employment as Correctional Officers at the York County Prison for their "conduct during and prior to a 'Use of Force' incident on May 1, 2018." (Exhibits C-14 and 15) After the fact finding meetings and Pre-Disciplinary Conferences (PDC) were conducted by the Employer, the Grievants were discharged. The termination letter

provided to each Grievant stated, in pertinent part:

We have concluded our investigation and found that you taunted and antagonized an inmate and that you were dishonest during the investigation. Your conduct and behavior not only violated your Collective Bargaining Agreement, York County Prison Procedures Manual and the Code of Ethics, but were also contrary to the orderly operations and reputation interests of the York County Prison. For those reasons, we are terminating your employment with York County.

(Id.)

The Union filed the instant grievances, alleging that the discipline imposed on the Grievants was without just cause. The County denied the grievances and the matters were processed by the parties to the instant arbitration hearing for final resolution.

Relevant Provisions of the Contract

ARTICLE 3 MANAGEMENT RIGHTS

Section 1. The Management of the County operations and the direction of the working force is vested exclusively in the Employer and includes, but is not limited to, the right to: hire, suspend, discipline or discharge for proper cause, or transfer, and the right to relieve employees from duty because of lack of work or for other legitimate reasons under this Contract; make and enforce reasonable rules of conduct; select supervisory and management personnel; introduce new or improved methods, equipment, or facilities or to change existing methods or facilities; determine the total employment requirements, hours of work required for a particular operation and job assignments and job classification of personnel; establish functions, programs, budgets, organizational structure and standards of service and performance.

Section 2. The Employer and the Union declare their willingness at all times to discuss any of the matters above referred to which matters are not subject to the grievance

procedure except as herein in this Article, and will give full consideration to any suggestions made by the Employer or the Union, provided further that none of these management rights shall be used in any discriminatory manner.

* * *

ARTICLE 18 DISCHARGE, DEMOTION, SUSPENSION, AND DISCIPLINE

Section 1. The Employer shall not demote, suspend, discharge, or take any disciplinary action against an employee without just cause. An employee may appeal a demotion, suspension, or discharge beginning at the third step of the grievance procedure, subject of [sic] any conditions set forth in the Grievance Procedure. The Union shall be notified in writing within four (4) calendar days by the Employer of any demotion, suspension or discharge.

Section 2. Any action instituted under Section 1 of this Article shall be implemented within fifteen (15) calendar days after the Union has been notified in writing, after the event giving rise to such disciplinary action or knowledge thereof. The time limit above may be extended by mutual agreement.

Section 3. The Employer will attempt to discipline employees in such a manner so as not to embarrass the employee before the public or other employees. Where insubordination or flouting of authority by an employee in public and in the presence of other employees takes place the Employer shall not be restricted by the operation of this section.

Warning letters, and/or minor infractions or violations shall not be considered or used by the Employer when issuing discipline, provided that such letters and/or warnings had been issued at least eight (8) months prior.

However, incidents, and/or violations that have resulted in a suspension, may be considered by the Employer when assessing disciplinary action for fourteen (14) months.

Any bargaining unit member who is incarcerated for any offense is subject to suspension without pay, pending disposition of the charges, and dismissal if found guilty of the offense charged. However, if the employee is found innocent, he will be made whole.

Any bargaining unit member who is found guilty of any criminal charge that reflects on the professionalism or goals of prison operations shall be terminated.

Section 4.

OFFENSE¹

		<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>
4.	Involvement in unprovoked altercation	S	T		
5.	Proven theft or dishonesty	T			
13.	Failure to follow instruction or perform assigned work	W	3-D	T	

* * *

Discussion and Opinion

The issue in this matter is whether the County had just cause to discharge the Grievants and, if not, what shall be the remedy?

The County points out that on May 1, 2018, the Grievants were responsible for the care and custody of an inmate with mental issues who had been placed on SP2 (suicide protection watch). The County alleges that the Grievants taunted and antagonized the inmate, which resulted in the inmate becoming agitated to the point that he placed his mattress against the door, obstructing the view of anyone from outside the cell door. The Grievants told him to remove the mattress without success, so the Grievants then informed a Lieutenant of the problem. The Lieutenant, without any planning, told the Grievants and

¹ Only the offenses relevant to this matter are listed.

several other Correctional Officers to open the inmate's cell door to remove the obstructing mattress. Upon performing this action, the inmate punched a Correctional Officer and bit his arm. This precipitated a "use of force" incident to subdue the inmate and place him in a restraint chair. The incident became the subject of a Use of Force report.

The County notes that during fact finding meetings regarding the Use of Force incident, each of the Grievants was asked, separately, "Prior to or following the use of force [incident], did you or any other staff taunt or antagonize [the inmate]" and both Grievants, individually, responded, "No." (Exhibits C-6 and C-10) The County points out that five days *after* the submission of his responses in the fact finding meeting, Grievant Phillips amended his answers by reporting that he may have made sexual comments to the inmate. The County argues that it is clear that during the investigation, both of the Grievants were untruthful. An audio/video surveillance tape (Exhibit C-17) verifies that the Grievants did use obscene and/or demeaning speech towards the inmate. The County points out that the Grievants ultimately acknowledged that they made the statements heard on the Employer's audio/video file.

The County argues that under the collective bargaining agreement, it may discipline for any conduct which is contrary to the orderly operation of the prison. The

"orderly operation of the prison" is set forth in the Code of Ethics which is concerned with, among other things, the care and custody of the inmates. (Exhibit C-4)

The County points out that discharges such as the ones at issue are not without precedent. Approximately one year ago, three Correctional Officers were discharged for arranging and conducting demeaning "games" using inmates. While two of the Correctional Officers were found to be perpetrators of the "games", the third was found to have known of the "games", yet lied during the investigation by denying such knowledge. These discharges were upheld through an arbitration award. The County argues that as the Grievants in the instant matter lied during the investigation, their discharges for dishonesty should similarly be upheld.

The Union maintains that the Employer did not have just cause for the discharges in this matter, as is required by Article 18, Section 1, Management Rights, of the collective bargaining agreement. The Union argues that, despite the County's position, an employee who answers a question incorrectly during an investigation is not necessarily dishonest. The Union asserts that dishonesty is a type of fraud and there was no intent to defraud here. While Grievant Phillips did not initially answer the question correctly, upon further reflection, he returned and corrected his response. The Union asserts that no one

prompted him to do so and further, that this occurred *before* any discipline was imposed. The Union argues that Grievant Baez was not dishonest in his responses, as he did not perceive his banter to constitute taunting or antagonizing of the inmate. In addition, Grievant Baez was surprised when the questions from Commander Rohrbach turned from use of force to taunting. The Union points out that the County began its investigation into this matter based on a "use of force" and notes that ultimately, no one was charged with improper use of force. As would be expected, the questions asked Grievant Baez were primarily about use of force, however, the last question he was asked concerned "taunting." When Commander Rohrbach asked Grievant Baez whether he or anyone else taunted or antagonized the inmate, he was caught off guard and misspoke. He maintains that his comments to the inmate were more in the nature of prison banter.

The Union argues that the County's reliance on the prior arbitration case in which three Correctional Officers' discharges were upheld is misplaced. That case involved criminal conduct, resulting in three trials in which two of the Grievants were found guilty. An arbitrator subsequently upheld the discharges of all three based on "serious misconduct."

The Union argues that the record in the instant matter shows that the inmate exposed his penis and blew a kiss at Grievant Phillips, who called him a faggot or a queer. The Union argues that a Correctional Officer doesn't get discharged for using the terms "faggot" or "queer". In a prison, there are numerous incidents of verbal and physical harassment by the inmates against Correctional Officers. Inmates have thrown urine and feces at Correctional Officers. The Union emphasizes that inmates have threatened the Correctional Officers, their families and their children. This is the work environment of the Correctional Officers. The Union asserts that a Correctional Officer may get agitated and say something that he or she should not have said, but, the Union points out, these are just words. It emphasizes that no one is being charged with a physical assault or any improper use of force in this matter.

The Union points out that Article 18, Section 4, (the schedule of offenses) states that an "involvement in a provoked altercation" only results in a suspension and "failure to perform . . . assigned work" results in a written warning. The Union argues that the Grievants got discharged for using inappropriate words. There was no inappropriate use of force. As such, the Union argues that the disciplines imposed were not supported by just cause and asks that the grievances be sustained.

The record reveals that the Grievants were assigned the task of watching an inmate who had been placed on suicide watch. This task requires the Correctional Officer to keep the inmate in sight to assure his safety. The Employer points out that the Code of Conduct requires proper conduct of a Correctional Officer. "This involves an intelligent, humane, and impartial treatment of inmates. Profanity directed to inmates, or vengeful, brutal, or discriminatory treatment of inmates will not be tolerated." (Exhibit E-15, Code of Conduct, Article 1) The Warden explained that it is very important that Correctional Officers perform their functions professionally. When investigations are conducted, it is expected that the Correctional Officer will be truthful. The Warden explained that the Grievants were discharged for dishonesty and for their taunting and antagonizing behavior toward the inmate which created a situation that resulted in a use of force. The Warden explained that when an inmate is on a suicide watch, they are in a state of crisis and he expects that Correctional Officers will comport themselves in a way that will de-escalate a situation. In this matter, he found that the Grievants' taunting, antagonizing banter was contrary to the expected conduct of a Correctional Officer.

Grievant Baez testified that upon beginning his shift at 4 p.m., he found the inmate to be agitated and he told him to "calm down". The inmate wanted to go to Prison Mental Health. Grievant Baez told him that Mental Health would be contacted.

Subsequently, the inmate was taken to Prison Mental Health, where a representative put the inmate on SP2 (suicide watch). Because the inmate was placed on SP2, the Grievants were required to perform a strip search of the inmate. Grievant Baez maintains that it was at this time that the inmate began to taunt the Grievants. He testified that the inmate asked them, "Do you like this?" and "Do you want this?" and that the inmate called him [Grievant Baez] a "pussy".

Grievant Baez maintains that the inmate became agitated because he was being placed on SP2. Grievant Baez explained that suicide watch is a more restrictive environment than the manner in which the inmate had been housed. Grievant Baez testified that initially, he and the inmate had gone back and forth verbally, however, he maintains that he began to have a rational exchange with the inmate and ultimately believes he de-escalated the situation. Grievant Baez then went on his lunch break and another Correctional Officer stood watch over the inmate.

Grievant Baez testified that when he was performing security rounds after returning from lunch, he heard the inmate "mouthing off". Grievant Baez believes that he was outside the inmate's cell when he told the inmate, "You're nobody". Soon afterward, Grievant Phillips told Grievant Baez that the inmate was covering up the door to his cell

with his mattress. Grievant Baez testified that he notified a nearby Lieutenant. When the Lieutenant told the inmate to remove the mattress, the inmate told the Lieutenant, "Fuck you." The Lieutenant then asked Grievant Baez what Correctional Emergency Response Team (CERT) officers were available. Grievant Baez informed him that two CERT officers were available. The two CERT officers were called to assist. At the direction of the Lieutenant, four Officers and the Lieutenant opened the door to the inmate's cell and pulled the mattress out. At that time, the inmate lunged out and bit one of the Correctional Officers on the arm. The Correctional Officers then entered the inmate's cell, subdued him and placed him in a restraint chair to move him to Prison Medical.

Grievant Baez explained that when he was questioned at the fact finding meeting regarding the Use of Force on May 1, 2018, Commander Rohrbach asked him a series of questions dealing with the use of force. In his last question, the Commander asked Grievant Baez if he or anyone else had antagonized the inmate. Grievant Baez said that he was surprised by the change of subject and, at the time the incident involving the Use of Force occurred, he did not think that anyone had antagonized the inmate, so he answered, "No, sir." Subsequently, during the PDC hearing, Grievant Baez listened to the audio recording of the incident and he acknowledged that he did make certain antagonistic statements to the inmate. Grievant Baez maintained, however, that he believed the

statements were "bantering", the same as other Correctional Officers engage in with inmates.

Grievant Baez testified that he had engaged in an argument with the inmate before going to lunch, but he maintains that he de-escalated the matter by talking the inmate into a calm conversation before leaving him.

Grievant Phillips testified that he also began his shift at 4 p.m. on the day in question. While making his rounds, he found the inmate kicking his cell door. Grievant Phillips testified that the inmate informed him that he wanted out of his cell and that he would go into suicide watch. Grievant Phillips testified that he pointed out to the inmate that the only thing this would accomplish was that he [the inmate] would be placed in an identical cell but all of his personal belongings would be taken from him. He would have to be in a jump suit and papers, books, coffee cups, etc. would not be permitted in his cell.

When Grievant Phillips returned from his lunch break, he said that the inmate was being put on SP2. Prior to going into SP2, Grievant Phillips assisted Grievant Baez with the strip search of the inmate. He testified that they finished the search without incident.

At 9:00 p.m. that evening, Grievant Phillips was doing "constant watch observations" on the inmate, which requires the Correctional Officer to stand watch over an inmate for 30 minutes to an hour. Grievant Phillips observed the inmate pacing back and forth in the cell and he watched as the inmate kicked the door of the cell. Grievant Phillips explained that the cell door is steel and when kicked, it produces a loud sound. He told the inmate, "Don't kick the door." The inmate kicked the door again and asked Grievant Phillips, "Or what?" Grievant Phillips told the inmate, "You'll go on SP1." SP1 is a higher level of suicide watch that would require the removal of the inmate's clothing and he would simply be given a poncho-like blanket. Grievant Phillips explained that this was when he engaged in a more aggressive verbal exchange with the inmate. The inmate told Grievant Phillips that he was going to beat him up and punch him in the face and Grievant Phillips responded, "You're not going to do that". He explained that, at some point, he and the inmate got more verbally abusive. He recalled telling the inmate, "You're nothing, you're nobody." The inmate responded in kind. At one point, he blew Grievant Phillips a kiss, and Grievant Phillips called him a "fag or a queer". The inmate then stepped back and pulled out his penis. Grievant Phillips told the inmate, "That doesn't impress anybody, put that little thing away." The inmate complied, the verbal exchange went on for about 10 minutes more and then the inmate put his mattress in front of the door, blocking the window into the cell.

Grievant Phillips said that another Correctional Officer came by and they told the inmate to take the mattress down. When he didn't comply, they notified a Lieutenant. The Lieutenant pushed the mattress down from the window, but the inmate ran over and put the mattress back over the window and began kicking the door again. At that point, Grievant Phillips testified that the Lieutenant told the Correctional Officers to "crack the door" and they reached in to pull the mattress out of the cell. When the mattress was almost free of the cell, the inmate bit the arm of one of the Correctional Officers. The Correctional Officers then went into the cell to subdue the inmate and place him in a restraint chair. This resulted in a Use of Force incident report.

The Prison Surveillance recording reveals an exchange between the inmate and the Grievants. The time, speaker and statement/comment are as follows:

<u>Time</u>	<u>Speaker</u>	<u>Statement/Conduct</u>
20:34:13	Baez	"Aww man. I wish you would've done something but you didn't."
20:34:21	Baez	"I took the handcuffs off you. You had the opportunity to do whatever the fuck you wanted."
20:34:50	Inmate	Kicks cell door several times
20:35:10	Inmate	"Open the door pussy. You don't want to because you're afraid."
20:35:00	Baez	"You don't want me to open the door. I open the door and you're gonna do the same thing. Look at me. You had me one on one."
20:35:20	Inmate	Inmate goes on prolonged outburst culminating in "Fuck you nigger. Fuck you nigger." (Baez, who is Hispanic, did not hear this derisive comment.)

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20:35:38	Baez	"You had a weapon."
20:35:58	Baez	"Is that all you got? You got more? I'm still waiting."
20:40:45	Inmate	Talking and yelling through door (indiscernible)
20:43:00	Inmate	Strikes his head on the cell door
20:43:58	Baez	You done now?
20:44:23	Baez	"I'm just trying to talk. You're the one taking it out. I'm just trying to help out."
20:48:00	Inmate	Yelling (indiscernible)
21:12:48	Phillips	"You big pussy."
21:12:51	Phillips	"Faggot. You're queer."
21:13:08	Phillips	"You talk shit behind a door. You got nothing."
21:13:32	Phillips	"You're a piece of shit."
21:13:51	Phillips	"You're nothing."
21:13:59	Phillips	"Big man with the curly hair."
21:14:00	Phillips	"Big tough guy. Nothing."
21:14:14	Phillips	"Pussy."
21:14:17	Phillips	"Pussy."
21:15:30	Phillips	"Faggot."
21:15:59	Phillips	"Licked by a lesbian."
21:16:00	Phillips	[Inmate opens his jumpsuit exposed himself.] Phillips states, "Look at that little thing. That don't impress me."
21:16:58	Phillips	Phillips tells Baez, "He showed me his little bipper too."
21:17:00	Inmate	talks through the door (indiscernible)
21:17:00	Baez	"You lied like a little bitch. You are a nobody. You are a nobody."

21:18:00 Phillips Phillips kicks Inmate's cell door.
21:18:04 Phillips "Take down the mattress, dumb, dumb."

(County Ex. 17, Surveillance Tape.)

After hearing the audio from the surveillance tape, the Grievants acknowledged that these were their statements. However, they assert that the inmate was continually taunting, yelling and acting out at them.

The Union asserts that the basic threshold element required to establish just cause for discharge is notice to the employee that particular behavior or conduct will result in termination and argues that the Grievants were never given notice that common prison banter could result in their discharge. While the banter in this case was excessive and inappropriate, as testified to by Commander Rohrbach, banter of a similar nature does go on in a prison between Correctional Officer and inmates. The County points out that the Grievants were well aware of the York County Prison Procedures Manual, the Code of Ethics and the collective bargaining agreement. In this case, as the inmate was on SP2, the Grievants had a greater obligation to control their reactionary urge to engage in demeaning banter upon being provoked by the inmate.

The Grievants were also discharged for being dishonest during the investigation into the Use Of Force incident. The Union argues that the question asked Grievant Baez regarding "taunting" was unfair because the investigation was supposed to be regarding use of force. It maintains that Commander Rohrbach's last minute additional question resulted in "inaccuracies" but not dishonesty. In addition, the Union points to the fact that no other Correctional Officers have been discharged for dishonesty during an investigation of the nature for which the Grievants are accused.

The record reveals that the Administration was conducting an investigation into the May 1, 2018, incident which resulted in the use of force on an inmate. Commander Rohrbach testified that Correctional Officer Kelly Wilson filed a report alleging that the Grievants had taunted the inmate. Under such circumstances, it was reasonable for Commander Rohrbach to ask questions relating to the alleged taunting and/or antagonizing of the inmate on that date. The questions asked of each Grievant were clear. The first fourteen questions were primarily related to the Use Of Force incident. These questions had been typed by Commander Rohrbach prior to Grievant Baez's fact finding meeting and prior to his receipt of Officer Wilson's report. Commander Rohrbach testified that after receiving her report, he handwrote a fifteenth question on his list, which read, "Prior to or following the Use of Force, did you or any other staff taunt or antagonize [the

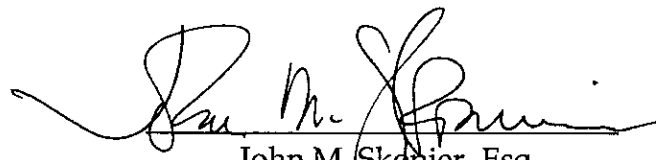
inmate]?" (Exhibit C-6) Both Grievants responded no to this question. After Grievant Baez's fact finding meeting, Commander Rohrbach typed this question onto his list and also a sixteenth question, "Did you at any time prior to or following the "Use of Force", make demeaning or defamatory sexual comments to [the inmate]?" When asked this question, during his fact finding meeting, Grievant Phillips answered "No".

It is clear that both men were less than honest when questioned by Commander Rohrbach during the fact finding meetings. The record clearly reveals and they, themselves, ultimately admitted, that they did make taunting comments to the inmate. Although Grievant Phillips did admit that he may have made sexual comments to the inmate five days after his fact finding meeting, neither fully acknowledged their actions until they heard the audio tape. Their actions in this regard were less than professional and they did not comport themselves in a way designed to de-escalate the situation. Although their conduct was wrong and deserving of discipline, it was pejorative name-calling between the Grievants and the inmate, and does not come close to the despicable misconduct that resulted in the discharge of the three Correctional Officers in 2017, two for their behavior of using inmates in "games" and the third for his complicity in not reporting the matters and for denying knowledge of them.

Although the Grievants' misconduct is deserving of a serious penalty, it does not merit discharge. As testified to by Commander Rohrbach, he, himself, admitted to inappropriate name-calling on occasion and acknowledged that such occurs in the prison. Grievant Baez's unrebutted testimony that he had observed other Correctional Officers engaging in such "banter" with other inmates, further reveals that such conduct was not unheard of in the prison environment. In this case, however, the inmate was on SP2 and the Grievants had a greater obligation to control their reactionary urge to engage in demeaning banter. Further, the Grievants were not forthcoming in their responses during their fact finding meetings. For these reason, while discharge is not found to be appropriate, a serious penalty is warranted, and will be so awarded.

Award

On the basis of the record as a whole and for the reasons discussed, just cause for discharge is not found. However, just cause for discipline is found. The Grievants are to be returned to work with full seniority but without back pay. Their time out of service is to be carried as a disciplinary suspension.


John M. Skonier, Esq.

June 9, 2019

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of July, 2019, a true and correct copy of the foregoing York County Prison's Petition to Modify or Vacate Arbitration Award was served by means of United States mail, first class, postage prepaid, upon the following

Ira H. Weinstock, Esq.
Ira H. Weinstock, P.C.
800 N. 2nd St.
Harrisburg, PA 17102
Attorneys for Respondent, Teamsters Local No. 776

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Teresa Laughead
Teresa H. Laughead



PILLAR+AUGHT

Cory A. Iannacone, Esquire
(717) 308-9628(Direct)
ciannacone@pillaraught.com

97/54/

July 1, 2019

Re: York County Prison v. Teamsters Local Union No. 776
York County Court of Common Pleas

Pamela S. Lee, Prothonotary
York County Judicial Center
45 N. George Street
York, PA 17401

VIA: FEDERAL EXPRESS OVERNIGHT

RECEIVED
2019 JUL -2 AM 10:56
JUDICIAL CENTER YORK PA

Dear Ms. Lee:

Enclosed for filing please find the following documents with regard to the above referenced matter:

- York County Prison's Petition to Modify or Vacate Arbitration Award (Original and two copies); and
- York County Prison's Application for Stay of Enforcement of Arbitration Award Dated June 9, 2019 (Original and three copies).

Also enclosed is a check in the amount of \$238.00 for your filing fee.

Kindly forward one copy of the Application for Stay of Enforcement of Arbitration Award Dated June 9, 2019 to Court Administration for assignment to a judge.

Kindly date stamp the extra copies and return to me in the enclosed self-addressed stamped envelope.

Should you have any questions, please call.

Sincerely,

PILLAR+AUGHT

By:

Cory A. Iannacone

Enclosure

cc: Ira H. Weinstock, Esquire