

## ACA MEET & CONFER MEETING

### February 3, 2017

---

Director Ryan greeted the group and addressed the agenda items.

Attendees: CO II Clinton Roberts, ASPC-Lewis, CO II Wallace Davis, ASPC-Eyman, and COII Scott Falcon, ASPC-Eyman represented ACA. Also present from ADC were Director Charles L. Ryan, Interim Deputy Director Greg Lauchner, Carson McWilliams, Division Director of Offender Operations, Michael Kearns, Division Director of Administrative Services, Brad Keogh, General Counsel, and Colleen McManus, Chief Human Resources Officer. Natalie Poff was present to take minutes.

### **SUBMITTED QUESTIONS AND ANSWERS**

On behalf of ACA, the following questions were submitted in advance:

**Question 1** – Due to the multitude of specialty posts and TWA posts per DI 326 is the expansion of the posting roster to show a true vacancy rate and FTE. This seems like the "ghost posting" of the past. Posts such as work crews, medical escorts, Psychology escorts, mental health escorts and program classroom escorts.

**Answer 1** – Carson McWilliams stated the following: The specialty posts and TWA posts are not exclusive to DI326. In fact, TWA (Temporary Work Assignment) is confused with a TDY (Temporary Duty Assignment). TWA assignments refer to those involving the temporary reassignment of officers to a modified duty assignment, usually for medical reasons. TDY or Temporary Duty Assignments are those commonly known as a special assignment and are "Temporary" in nature and are not in relation to a vacancy rate or FTE.

While an increase in the number of temporary posts has occurred, they represent additional security responsibility such as a precautionary watch, hospital duty, transportation of inmates to the specialty appointments, institutional security enhancement projects, and others are dynamic in nature and may not necessarily be needed each day. The "Ghost Posting" referred to is not a product of staffing temporary posts, but that of posting an officer on the roster in a post such as a control room without the officer reporting.

Mr. McWilliams advised that he would need to see an example of the "Ghost Posting" to which the ACA referred

ACA stated that TDY's in specialty posts such as medical escorts seem like reverse ghost posting.

ACA MEET & CONFER MEETING  
February 3, 2017

---

Mr. McWilliams stated that staff should make a notation on the roster to show medical escorts in TDY's to show what is happening with staff. Again, Mr. McWilliams reiterated that he would need an example of such posting to better assess and address the issue.

ACA asked if the temporary positions will be added permanently.

Mr. McWilliams advised that the temporary positions will not be added permanently. He further explained that the temporary positions are needed in specialty posts to give the Department more flexibility until we can figure out a way to balance the budget, FTEs, and areas of critical need.

**Question 2** – Yes, we have asked before regarding raises. Is there any update to this proposal?

**Answer 2** – Employee recruitment and retention, including employee compensation, continues to be of critical importance to ADC. The importance of this issue is illustrated by the fact that ADC continues to highlight and prioritize the issue in its annual budget request. ADC appreciates the opportunity to raise key budget issues, such as employee compensation, through the annual budget request and understands the difficult choices the Governor's Office makes in crafting a budget. Ultimately, funding for a permanent raise for ADC staff is not included in the Governor's recommended budget. However, ADC fully supports the Governor's budget recommendation and dedication to ensuring a stable, structurally balanced budget for Arizona.

However, even before final decisions were made on the budget, ADC worked with the Governor's Office to receive authorization to provide Corrections Officers a one-time, \$1,500 retention bonus to be paid during FY 2017. Correctional Officer IIs that have graduated from COTA and are employed with ADC on June 30, 2016 will receive the one-time \$1,500 retention pay. The retention bonus will be paid in June 2017.

Director Ryan advised that the pay package to increase the security series' salaries by \$1,000 was not recommended in the Governor's budget. He noted that 565 Correctional Officer positions were previously abolished by his predecessor in 2006 to help fund pay increases by using vacancy savings. The Director stated that although pay packages continue to be a priority, we cannot give up additional Correctional Officer positions to fund pay increases, as those positions are critically needed. He advised that current vacancy savings are being used to payout compensatory and holiday leave, which is a component of a three-part compensation strategy to encourage employee retention. The first component is the comp time payout that occurred in January 2017; the second will occur with the payout of comp time at the end of the fiscal year; and the third will be a \$1,500 one-time bonus for CO II's that are

## ACA MEET & CONFER MEETING

### February 3, 2017

---

employed with ADC on June 30, 2017. Director Ryan said, "We want to retain staff. We cannot increase the base pay of our Officers, but through various compensation strategies, we can put additional money in their pockets."

#### **Additional Information:**

Director Ryan sent an agency wide e-mail dated February 1, 2017 at 1:09 p.m. stating the following:

"We have recently received approval from the Arizona Department of Administration to change our employee performance evaluation (MAP) year from the current July 1 – June 30 to the new period of March 1 – February 28. This change was made to better accommodate the agency's priorities, including the possibility of providing merit pay or other incentive bonus pay as fiscal year-end resources may allow.

More information will be provided by Human Resources in the near future, but for now, please note that the current MAP rating period will close on February 28, 2017. This means that MAPs will need to be completed by March 31, 2017. Going forward, the MAP rating period will be March 1, 2017 – February 28, 2018. The timing of the new cycle will position us to better assess whether we can fund merit pay for staff, based on MAP ratings, with available funding.

Although we have requested funding for permanent pay raises, the Governor's Office and Legislature must ultimately make the difficult decision to allocate funding to priority issues. As you may be aware, the State has limited financial resources. To date, permanent pay raises for all employees have not been funded for a number of years. However, as an agency we may have the ability to award merit pay, based on available funding."

Director Ryan reiterated the MAP rating adjustment period to the employee organization and advised if we have additional vacancy savings, we may be able to fund merit pay. As a possible example, those who receive a MAP rating of:

- 2.0 may potentially receive a .5% bonus
- 2.5 may potentially get a 1% bonus
- 3.0 may potentially get a 1.5% bonus

Director Ryan advised that there are 839 CO II vacancies, a 12.6% vacancy rate. The retention bonus is intended for CO II's.

Director Ryan acknowledged that the Department of Corrections' pay is not competitive and further stated that ADC ranks at the bottom of the Western eleven states in relation to pay.

ACA MEET & CONFER MEETING  
February 3, 2017

---

ACA asked if base pay adjustments would impact next year's budget.

Greg Lauchner clarified that there will not be adjustments to base pay. He further stated that there will be two phases of the compensation plan; merit pay and the retention bonus, both of which will be paid one time only.

ACA asked if vacancy savings can fund an increase to the base pay for CO's and whether or not additional CO positions can be added to show that there is a legitimate need for additional funding during next year's budget appropriation hearings.

Director Ryan stated that budget forecasts and budget appropriations are determined by the legislature and are structurally balanced for all Arizona State Agencies.

Carson McWilliams stated that the 12 hour shift schedule will address vacancy numbers which in turn will impact vacancy savings and will hopefully help our retention efforts.

Colleen McManus added that if the retention bonus increases employee retention, we can use that evidence to support a pay package next year.

ACA suggested that a committee be formed to discuss ideas on ways to retain staff and have employees be recruiters to champion ADC as a competitive and diverse employer. It was also suggested that the committee can come up with training programs to improve officer safety, put together compensation ideas and publicly speak to show what our agency does.

Director Ryan stated that this type of forward thinking is in alignment with the AMS and the implementation of continuous improvement and commended ACA for their suggestion to form a committee to engage employees and other stakeholders and positively highlight the Department of Corrections.

**Additional Information:**

Arizona Management System (AMS) – Phase two of the AMS kicked off in Florence. Much of the emphasis of the cascading tiers is to empower the complex, down to the unit level, to be involved in the decision making process in hopes of propelling cultural change within ADC which is ever evolving. Agency Directors are required to meet with stakeholders to ask them what we are doing well, and what can we do better.

ACA MEET & CONFER MEETING  
February 3, 2017

---

**Additional Information:**

Director Ryan stated that CO's are required to own class A uniforms. Wearing class A's gives Supervisors the opportunity to inspect them and ensure their staff are following policy. The issue with polos is that they wear out quickly. Class A uniforms will continue to be a requirement. Policy will not change. If staff want to wear service stripes, they will have to pay for them. If they do not want to wear service stripes they do not have to. It's their choice. Carson McWilliams will meet with the Employee Organizations in the near future to come up with a proposal to add LA Police Gear to the list of approved brands to purchase TDUs.

**Question 3** – Call-ins, is there a standard to the call-ins? There has been an increase in workers coming to work in severe personal conditions. Where is the line for [us to] draw as a Department?

**Answer 3** – Attendance is a critical component of effectively and efficiently managing the agency and ensures adequate staffing levels for safety and security. The Department demonstrates respect and appreciation for those employees who exhibit exceptional reliability by imposing and enforcing a reasonable attendance standard throughout the Department. Attendance standards are outlined in Department Orders 512 and 525.

With respect to "call-ins" or unscheduled usage of sick leave; accrued sick leave is available for use as may be needed. Situations arising which result in the use of sick leave are varied thereby stipulating a "standard" on the frontend is difficult. In lieu, each unscheduled leave event is evaluated individually. It is expected that agency actions arising out of leave utilization be uniform and consistent within units to ensure fairness and equitable treatment. Though as indicated in DO 512.1.8.1.8.3; Supervisors may require the submission of evidence substantiating the need for sick leave, however not every employee shall be required to submit documentation for every sick leave hour used. The requirement to produce documentation shall be determined on a case-by-case basis when chronic and/or extended periods of sick leave are taken and/or a pattern indicates a possible abuse of sick leave.

ACA raised questions regarding the number of call-ins an employee can have, and if an employee is rotated or transferred, if those previous call-ins are counted toward the number of allowable absences, or if an NNTI would then be issued.

Mr. McWilliams advised that he will look into policy regarding call-ins. He further stated that the NNTI's and 601's are to correct the behavior of those who abuse sick leave and call-ins.

ACA MEET & CONFER MEETING  
February 3, 2017

---

Director Ryan stated that the chart in policy is a guideline, not an absolute. Such behavior should be addressed but we do not want to arbitrarily dismiss employees. When dealing with employee misconduct, we should discipline the behavior and send the employee to training to send the message to the employee that ADC cares and wants to retain its valued workforce.

**Question 4** – In the last meet and confer minutes it was stated that ACA was silent on this issue. This was incorrect. What was stated was that we are handling the particular issues at different levels. What we have been telling our members is that asking for a shaving waiver is asking for an accommodation under the American Disabilities Act Amendment Act. So when they are being denied for a true disability we are instructing the member to file an EEOC with the feds. Please one has had a waiver for years. Before the requirement of the waiver. One has a temporary waiver. How can this be enforced? A temporary waiver is basically discriminating against the employee and providing different accommodations for other employees with the same issue.

Also, we have been explaining to our members that the limited HIPAA release is to streamline the process due to the doctors that the members are using are not providing the proper information for an ADA accommodation.

**Answer 4** – The Department is an equal employment opportunity employer and prohibits discrimination or harassment on the basis of any legally protected characteristic, including disability. Each request for a medical shaving waiver is thoroughly reviewed on a case by case basis. It is important to note that while individuals may have the same diagnosis or medical condition, the condition can manifest itself differently, and with different levels of severity, for each individual. The determination to grant a shaving waiver is based on documented objective medical findings notated in the medical records the employee voluntarily provides to the Occupational Health Nurse (OHN). The option to utilize the HIPAA compliant limited release form authorizes the OHN to engage with the healthcare practitioner to obtain the medical documentation, and makes the process more convenient for the employee. From the health standpoint, the temporary or permanent shaving waiver prevents aggravation of a pre-existing skin condition and permits the employee to continue in his current job classification.

To constitute a disability under the Americans with Disabilities Act (ADA), a condition has to substantially limit one or more major life activities. While working is considered a major life activity, shaving is not. Therefore, the Department does not find that an inability to shave rises to the level of a disability under the ADA.

## ACA MEET & CONFER MEETING

### February 3, 2017

---

Notwithstanding the fact that this condition is not a disability under the ADA, the Department provides an accommodation to employees with a documented skin condition in the form of a shaving waiver that permits them to grow facial hair up to ¼ inch in length. For the requests for accommodation we have received to date, the employees have been advised to apply for a shaving waiver as indicated in policy.

The medical review board (Occupational Health Administrator Derleen Spence and Dr. Rowe) will continue to review incoming cases and forward their recommendations to the Warden. No more energy will be spent on beard issues. Director Ryan concluded that officers with beards are an issue of M95 safety and professional image.

ACA stated the issue is not with policy, the issue is with the review board. ACA gave an example of an employee who previously was approved for a shaving waiver, but then when DO 503 was released the employee had to re-apply for a shaving waiver. Under the medical review board's recommendation, the employee's request for a shaving waiver was denied.

Discussion ensued regarding issues with Doctor's notes not articulating employees' skin conditions as they relate to shaving waiver requests.

Director Ryan stated that the sharpest looking officers are COTA Cadets at graduation. They are crisp, clean shaven, and professional looking in their Class A uniforms.

#### Closing:

The Director encouraged the Employee Organization to utilize the opportunities they have to communicate the questions and concerns of their members more frequently, including taking advantage of his open door policy. Director Ryan further stated that he agrees that Officers are our best recruiters and praised ACA for their suggestion to put together a committee. Director Ryan added that perhaps the Department can consider reinstating recruitment bonuses.

ACA made one last recommendation before adjourning. ACA stated that if new Officers are put onto open yards rather than going straight to lock-downs, new Officers might be more inclined to stay.

Carson McWilliams advised one of the problems is that seasoned Officers do not want to be confined to lock-downs. The 12-hour shift change should help address this issue.

Director Ryan thanked those who were in attendance.

ACA MEET & CONFER MEETING  
February 3, 2017

---

cc: Executive Staff  
Wardens  
Paul O'Connell  
File