

U.S. DEPARTMENT OF JUSTICE IMMIGRATION AND NATURALIZATION SERVICE, EASTERN REGION NEW YORK DISTRICT NEW YORK, NEW YORK  Respondent	
and  AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO, LOCAL NO. 1917  Charging Party	Case No. BY-CA-40920

NOTICE OF TRANSMITTAL OF DECISION

The above-entitled case having been heard before the undersigned Administrative Law Judge pursuant to the Statute and the Rules and Regulations of the Authority, the undersigned herein serves his Decision, a copy of which is attached hereto, on all parties to the proceeding on this date and this case is hereby transferred to the Federal Labor Relations Authority pursuant to 5 C.F.R. § 2423.26(b).

PLEASE BE ADVISED that the filing of exceptions to the attached Decision is governed by 5 C.F.R. §§ 2423.26(c) through 2423.29, 2429.21 through 2429.25 and 2429.27.

Any such exceptions must be filed on or before **AUGUST 16, 1995**, and addressed to:

Federal Labor Relations Authority  
 Office of Case Control  
 607 14th Street, NW, 4th Floor  
 Washington, DC 20424-0001

SAMUEL A. CHAITOVITZ  
 Chief Administrative Law

Judge

Dated: July 17, 1995  
Washington, DC

MEMORANDUM

DATE: July 17, 1995

TO: The Federal Labor Relations Authority

FROM: SAMUEL A. CHAITOVITZ  
Chief Administrative Law Judge

SUBJECT: U.S. DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION  
SERVICE, EASTERN REGION  
NEW YORK DISTRICT  
NEW YORK, NEW YORK

Respondent

and

Case No. BY-

CA-40920

AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES,  
AFL-CIO, LOCAL NO. 1917

Charging Party

Pursuant to section 2423.26(b) of the Rules and Regulations, 5 C.F.R. § 2423.26(b), I am hereby transferring the above case to the Authority. Enclosed are copies of my Decision, the service sheet, and the transmittal form sent to the parties. Also enclosed are the transcript, exhibits and any briefs filed by the parties.

Enclosures

UNITED STATES OF AMERICA  
FEDERAL LABOR RELATIONS AUTHORITY  
OFFICE OF ADMINISTRATIVE LAW JUDGES  
WASHINGTON, D.C. 20424-0001

U.S. DEPARTMENT OF JUSTICE IMMIGRATION AND NATURALIZATION SERVICE, EASTERN REGION NEW YORK DISTRICT NEW YORK, NEW YORK  Respondent	
and  AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO, LOCAL NO. 1917  Charging Party	Case No. BY-CA-40920

Dennis H. Desautels, Esq.  
For the Respondent

Peter Dow, Esq.  
For the General Counsel, FLRA

Ignatius A. Gentile, Vice President  
For the Charging Party

Before: SAMUEL A. CHAITOVITZ  
Chief Administrative Law Judge

DECISION

Statement of the Case

This case arose under the Federal Service Labor-Management Relations Statute, Chapter 71 of Title 5 of the U.S. Code, 5 U.S.C. § 7101, et seq. (Statute).

Based upon an unfair labor practice charge filed by the Charging Party, American Federation of Government Employees, AFL-CIO (AFGE), Local No. 1917 (Union and AFGE Local 1917) a Complaint and Notice of Hearing was issued by the Regional Director for the Boston Region of the Federal Labor Relations Authority (FLRA). The Complaint alleges that the U.S. Department of Justice, Immigration and Naturalization

Service (INS) Eastern Region, New York District violated § 7116(a)(1) and (5) of the Statute by changing the sign-in/sign-out procedures of its employees without notifying the AFGE or AFGE Local 1917 and giving it an opportunity to bargain about the change.

A hearing was held in New York, New York. All parties were afforded a full opportunity to be heard, to examine and cross examine witnesses and to introduce evidence. The General Counsel (GC) of the FLRA and the Respondent filed briefs which have been considered.

Based upon the entire record, including my observation of the witnesses and their demeanor, I make the following findings of fact, conclusions and recommendations.

### Findings of Fact

#### **A. Background and ACAP**

AFGE, National Immigration and Naturalization Service Council is the certified exclusive representative of a nationwide unit of employees of INS. AFGE Local 1917 is the representative of AFGE. There are about 100 Special Agents (SAs) assigned to the INS New York District Office, which is located at 26 Federal Plaza, in Manhattan, and they are in the nationwide unit.

For a number of years prior to April 1, 1994, INS New York District assigned certain of its SAs to the Alien Criminal Apprehension Program (ACAP). By about February 1992, approximately 20 SAs stationed in the INS New York District Office were assigned to ACAP. The SAs assigned to ACAP were required, three or four times a week, to travel directly to state correctional facilities from their homes. At these institutions the SAs interviewed and dealt with incarcerated aliens. On the remaining days of the week, the SAs worked in the INS New York District Office or in the field where they apprehended aliens. At all times the SAs assigned to ACAP had as their post of duty the INS New York District Office, where their offices and case files were located.

#### **B. ACAP sign-in/sign-out procedures**

Prior to April of 1994, SAs assigned to ACAP traveled between their homes and the New York State correctional facilities and between their homes and the INS New York District Office using government vehicles equipped with two-way radios. SAs signed in and signed out of work using the two-way radios in their government vehicles and calling the INS Communications Center at 26 Federal Plaza in New York

City. When working at the INS New York District Office, the SA would call on his two-way and sign in as he arrived at work and would call on his two-way radio to sign out as he left work. On the days the SA was working at state correctional facilities, he would sign in on route to the facility and would sign out on the way home from the facility, using the two-way radio and communicating to the Communications Center.

SAs' travel times to and from their homes and state correctional facilities could be a matter of hours, whereas the times to travel between homes and the INS New York District Office could be a matter of minutes. The extra time which the SA spent traveling between the state correctional facilities and the SA's home was considered work time by the INS New York District, and the SA signed in and out accordingly, using the two-way car radio. Work time in excess of an SA's regular eight-hour shift was credited towards Administratively Uncontrollable Overtime (AUO).

One SA, Douglas Green, testified how this system operated before April of 1994. He testified that when he was assigned to ACAP and was assigned to work at the Down State Correctional Facility in Fishkill, New York, he had to travel about 70 miles north of New York City and it took him about one to one and one-half hours to drive each way from his home to the correctional facility. His regular shift of duty was 8:00 a.m. to 4:30 p.m. He would leave his home a little before 6 a.m. He would sign in by radio soon after he left his home, at about 6:00 a.m., and he would arrive at the correctional facility between 7:30 and 8:00 a.m. He left the correctional facility at about 2:30 p.m., have some lunch on the way home, and sign out at 4:30 p.m., as he approached his home.<sup>1</sup> Any time spent traveling in excess of the regular duty shift was compensated as AUO. In this case he incurred approximately 2 hours in travel in excess of his regular shift, and this was paid as AUO. All SAs in ACAP signed in and out the same way.

### **C. IHP**

In late March 1994, in a meeting at INS New York District Office, a Deputy Assistant Attorney General announced an enhancement of its ACAP program called the Institutional Hearing Program (IHP). The IHP involved full time staffing by 14 SAs at the two state correctional facilities. The SAs assigned to each facility were to spend

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Mr. Green testified that the same procedure was followed when he was assigned to the Ulster Correctional Facility in Napanoch, New York, except that the Ulster Facility was 95 miles from his home and the travel time was a little longer, about two hours each way.

all five work days in the week at that facility, as opposed to 3 or 4 days a week under the previous ACAP.

The 14 agents temporarily assigned to IHP<sup>2</sup> were told at a second meeting in late March 1994, in the INS New York District Office, that seven SAs would be assigned to each of the Correctional Institutions. INS New York District was represented by Dan Molerio, Assistant District Director for Investigations and Michael Hart, the Deputy Assistant District Director for Detention and Deportation. Mr. Molerio was Mr. Green's fourth-level supervisor. A majority of the 14 agents assigned to IHP were from ACAP. The SAs assigned to IHP were advised by the INS NEW York District's representatives that Mr. Hart would be their second-line supervisor in IHP and that there would be no changes in travel time and earnings of AUO. The SAs were advised that it would be business as usual. The SAs' duty post under IHP remained the INS New York District Office. They were, however, temporarily assigned to the correctional institutions, and their offices and files were to be located at these institutions.

#### **D. IHP sign-in/sign-out procedures**

IHP was instituted on April 1, 1994 and Mr. Green was initially assigned to the Down State Correctional Facility in Fishkill, New York. Mr. Green was assigned to travel with four other agents. They would meet at the INS New York District Office and drive up together. Mr. Green would leave his home at a little before 6 a.m. and would sign in at 6 a.m. using the two-way radio in his government car when he arrived at 26 Federal Plaza. The SAs riding with Mr. Green all gathered at the office and, at about 7 a.m., left for Down State Correctional Facility, arriving there between 9 and 9:30 a.m. At the end of the work day they would all drive back to Manhattan so the other agents would have access to public transportation, and Mr. Green would return home, signing out, using the two-way radio, at about 6:30 or 7 p.m. This procedure lasted just a few days.

Mr. Green, a few days after IHP started and after a discussion with his first-line supervisor, was reassigned to the Ulster Correctional Facility. He was reassigned so he would travel with other agents who lived in New Jersey. Mr. Green would sign in, using the two-way radio, after the last agent got into the car, at about 6 a.m., and they would arrive at the Ulster Correctional Facility at about 8 or 8:30 a.m. At the end of the day they departed the correctional facility between 2 and 2:30 p.m. They would

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Vacancy announcements to fill these IHP positions on a permanent basis were posted in March 1995.

have some lunch on the way home and they signed out by two-way radio at about 4:30 p.m., as they approached their homes. This procedure was followed for some days. Then the SAs were instructed by their first-line supervisor that they were no longer to use the two-way radio to sign in and to sign out. They were instructed to sign in when they arrived, in the morning, at the correctional facility and, at the same time, to sign out for the prior day. The sign-in/sign-out sheet was one sheet located at the correctional facility. They signed in as of shortly after they left their homes, about 6 a.m., and signed out, for the prior day, as of when they arrived in the vicinity of their homes, about 4:30 p.m., although they actually left the correctional facility between 2 and 2:30 p.m. They signed in and signed out effective at the same times when they had signed in and signed out by two-way radio. They followed this procedure until April 11, 1994.

On April 11, 1994, the seven SAs assigned to Ulster were called to a meeting at the Ulster Correctional Facility. The first and second-line supervisors instructed the agents that they would be permitted one hour travel time, each way, to travel between home and the correctional facility, regardless of where they lived. The SAs were told they were expected, upon arrival at the facility, to sign in one hour before arrival, regardless of when they left home, and they would be expected to sign out as of one hour after departing, no matter what time they arrived home. They were also instructed that they would be required to physically arrive at the facility no later than 8:30 a.m., and they could depart no later than 3:00 p.m. Thus, if their shift was a 7:30 a.m. to 4:00 p.m. shift, they signed in as of 7:30 a.m., even though they arrived at 8:30 a.m., and signed out at 4:00 p.m., even though they actually left at 3:00 p.m. This was effective immediately.

The next day, in order to maintain the same number of AUO hours he had previously been earning, Mr. Green had to leave his home at 5:00 a.m., arrive at the facility at 7:00 a.m., and sign in as of 6:00 a.m. Thus he had two AUO hours before the start of a shift that started at 8:00 a.m. He left work at 3:30 p.m. and signed out as of 4:30 p.m. Mr. Green actually arrived home at about 5:30 p.m.

The same sign-in and sign-out procedural changes were made concerning the SAs assigned to the Down State Correctional Facility. The sign-in/sign-out procedures that went into effect on April 11, 1994, continued at both correctional facilities at least until the subject hearing herein.



In mid-May of 1994, the two-way car radios were physically removed from the SAs' government cars.

**E. AFGE Local 1917 requests to bargain and response.**

INS did not provide AFGE Local 1917 with advance notice or an opportunity to negotiate concerning the changes in the sign-in/sign-out procedures for the SAs assigned to IHP. On April 26, 1994, when AFGE Local 1917 Second Vice-President Bruce Cappell learned of the changes he wrote to INS New York District Director William Slattery, requesting to bargain about the changes in the ". . . sign-in and sign-out procedures along with other AUO related matters" with respect to the agents assigned to IHP. In his response dated April 29, 1994, Mr. Slattery stated that he was unable to respond to the request and asked for more specificity as to the nature of the "grievance."

By letter dated May 9, 1994, AFGE Local 1917 Vice-President Ignatius A. Gentile responded to Mr. Slattery, asking to enter into negotiations concerning the change in the sign-in/sign-out procedures and AUO, in accordance with Article 9(A) of the collective bargaining agreement, concerning impact bargaining.

By letter dated June 10, 1994, Acting District Director Edward J. McElroy responded to Mr. Gentile's letter stating that he needed more information describing the changes. The letter also stated that the sign-in/sign-out procedures vary slightly at different locations, but they are essentially the same, and without a description of the claimed change or its impact, it could not be determined if it is of such importance to require bargaining. The letter also stated that the AUO matter is subject to law and regulation and is not subject to bargaining. The letter concluded that Mr. McElroy did not believe any changes had occurred requiring impact and implementation bargaining and the Union's request was denied.

**F. Sign-in/sign-out procedures for temporarily assigned employees.**

In the INS New York District, employees temporarily assigned to a work location other than their own, sign in and sign out at the location of the temporary assignment.

Discussion and Conclusions of Law

**A. Positions of the Parties**

Section 7116(a) (1) and (5) of the Statute provides:

(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency-

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

\* \* \*

(5) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter;

The GC of the FLRA alleges that the INS New York District violated § 7116(a) (1) and (5) of the Statute by unilaterally changing the sign-in/sign-out procedure for employees assigned to the IHP without providing the AFGE Local 1917 with notice and/or an opportunity to negotiate about the substance and implementation of the change. The GC contends that for two years before the change in question, INS New York District permitted the employees assigned to the ACAP to sign in and to sign out by calling the INS Communications Center using the two-way radios in their government vehicles. When reporting to the correctional facilities, using the two-way radios, the SAs signed in and signed out while en route to and from the correctional facility and all travel time, in excess of the SA's normal commuting time to the INS District Office, was considered work time and the SA was compensated for this time as straight work time and the amount in excess of eight hours was compensated as AUO. The GC argues that the sign-in/sign-out procedures are conditions of employment and because this system continued for two years, the GC argues further that the sign-in/sign-out procedures became an existing condition of employment that could not be changed without providing the union with notice and an opportunity to request bargaining before changing the practice.

INS argues that the SAs were temporarily assigned to IHP on April 1, 1995, and that they were temporarily assigned to work sites other than their normal work site at 26 Federal Plaza, Manhattan. It was envisioned that the SAs temporarily assigned to IHP would be permanently replaced in that program. INS argues that the practice in the INS New York District was that all employees who are temporarily assigned to a work location other than their own, sign in and sign out at the work location to which they are temporarily assigned. Thus, INS argues, requiring the SAs temporarily assigned to IHP to sign in at correctional

facilities to which they were temporarily assigned was consistent with the practice and procedures followed in the INS New York District. Accordingly, it is urged that INS made no changes affecting conditions of employment. INS urges further that SA Green earned two hours of AUO a day, ten hours of AUO a week, the maximum that could be earned, both before and after the institution of the IHP. Thus with respect to SAs Green and Karen Devalera there was no change in their AUO. INS also argues that SA Green chose, on his own to leave home before 6 a.m., and that he chose to put in more hours than is necessary for overtime computation, and was not required to do so by INS.

**B. Sign-in/sign-out procedures are a term and condition of employment.**

The FLRA has held that management policies regarding the recording of employee time and attendance, including sign-in/sign-out procedures, constitute a condition of employment, the substance of which is negotiable. See, *Overseas Education Association, Inc. and Department of Defense Dependents Schools*, 29 FLRA 734 (1987); *United States Department of Health and Human Services, Region II, New York, New York*, 26 FLRA 814 (1987); *American Federation of Government Employees, AFL-CIO, Local 1603 and Department of the Navy, Navy Commissary Store, Patuxent River, Maryland*, 16 FLRA 96 (1984); *Planners, Estimators and Progressmen Association, Local No. 8 and Department of the Navy, Charleston Naval Shipyard, Charleston, South Carolina*, 13 FLRA 455 (1983); *American Federation of Government Employees, AFL-CIO, Local 1760 and Department of Health, Education and Welfare, Social Security Administration, Northeastern Program Service Center, Flushing, New York*, 8 FLRA 202 (1982).

**C. Past practice involving a condition of employment creates obligation to bargain.**

Where the evidence establishes that a practice involving a condition of employment has been consistently exercised over a significant period of time and followed by both parties, the FLRA holds that management is obligated to provide the union with notice and an opportunity to request bargaining before it changes that practice. *Defense Distribution Region West, Tracy, California*. See, e.g., 43 FLRA 1539 (1992); *U.S. Department of Labor, Washington, D.C.*, 38 FLRA 899, 908 (1990); *Norfolk Naval Shipyard*, 25 FLRA 277, 286 (1987).

The FLRA holds that when the decision to make a change was itself negotiable, the extent of the impact of the change in conditions of employment on unit employees is not relevant. *Department of Health and Human Services and*

*Social Security Administration, et al*, 30 FLRA 922 (1988); *Department of Defense Dependents Schools, Mediterranean Region and Zaragoza High School*, 19 FLRA 395 (1995); and *U.S. Army Reserve Components Personnel and Administration Center, St. Louis, Missouri*, 19 FLRA 290 (1985).

**D. INS violated the Statute by unilaterally changing the sign-in/sign-out procedures without providing notice to the union and an opportunity to bargain.**

The record herein establishes that all employees of the INS New York District who were temporarily assigned to work locations other than their regular work locations, physically signed-in/signed-out at the temporary location.

The SAs in ACAP were permanently assigned to the INS New York District Office and continued to sign-in/sign-out there, using their two-way radios, when they were spending a particular day at a correctional institution. They were not temporarily assigned to these institutions, it was merely where they were working on a given day. Their offices and files were still at the INS New York District Office. This was true even though the SAs in ACAP worked 3 to 4 days a week in the correctional institutions. They followed the same procedure as when they were working anywhere else in the field.

When temporarily<sup>3</sup> assigned to IHP on April 1, 1994, the SAs were no longer assigned to report to the INS New York District Office. Rather, they were temporarily assigned to specific correctional institutions. The individual SA assigned to IHP reported every day to the correctional institution to which he was temporarily assigned. His office and files were located at that institution. Thus when the INS required the SAs temporarily assigned to IHP to sign-in/sign-out at the correctional institutions to which they were temporarily assigned, INS was not changing an existing condition of employment.

However, part of the sign-in/sign-out procedures for SAs assigned to ACAP was that their travel time between the correctional institution and their homes were on the clock, except for the brief time it would take to travel from home to the INS District Office. Thus, when an SA had to travel 2 hours each way to the correctional institution, his travel time was either treated as AUO or as part of his regular

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I note that "temporary" is a relative term. In fact these IHP positions were not posted, to be filled on a permanent basis, until about a year after the SAs were temporarily assigned to the IHP

work day.<sup>4</sup> The SA was compensated for all 4 hours of his travel time. This practice of compensating the SAs for all of their travel time when they went to the correctional institutions was followed throughout the entire time ACAP was in place and was continued during the first two weeks after IHP was instituted. This aspect of the sign-in/sign-out procedure clearly constituted an existing term and condition of employment that could not be changed without affording the Union advanced notice of the change and an opportunity to bargain about the substance of the change. See e.g., *Defense Distribution Region West, Tracy, California*.

On April 11, 1994, however, INS instructed the SAs that, when signing in and out at the correctional institutions, they could only sign in as of one hour before they actually arrived and could only sign out as of one hour after they left. Thus, if the travel time was 2 hours each way, only one hour would be on the clock, as either straight time or AUO. Thus, an SA with a total daily commute of 4 hours would only be able to take 2 hours on the clock, as either straight time or AUO. This constituted a change in the then existing sign-in/sign-out procedures and INS was obligated to give the Union advance notice of this change and an opportunity to bargain about the substance of the decision. INS did not provide such notice or opportunity to AFGE Local 1917.

INS' failure to provide AFGE Local 1917 with the required notice and opportunity to bargain about the change in the sign-in/sign-out procedures constituted a violation of § 7116(a)(1) and (5) of the Statute. See, e.g., *Defense Distribution Region West, Tracy, California*.

To the extent that this aspect of the change could possibly be viewed as a change in employees' starting and quitting times, the Authority has determined that such adjustments involve matters affecting working conditions. Accordingly, an impact/implementation bargaining obligation arises when changes are made to starting and quitting times resulting in impact which is more than *de minimis*. See, *Department of the Air Force, Scott Air Force Base, Illinois*, 33 FLRA 532 (1988).

In this regard, INS has made no contention that the time limits which it unilaterally imposed constitute adjustments to employees' starting and quitting times. However, if the FLRA were to find that these were changes to starting/quitting times, the evidence establishes that the changes had an impact upon working conditions that was more

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For the purpose of this discussion I will ignore the short travel time between the SA's home and the INS New York District Office.

than *de minimis*. The changes had the effect of reducing the number of work hours credited to the SAs assigned to IHP. As discussed above some SAs lost as many as 2 hours a day on the clock for commuting time. Accordingly, the changes associated with elimination of the established sign-in/sign-out procedure also obligated the Respondent to notify the Union and, upon request, to bargain concerning implementation of the changes, including negotiations over appropriate arrangements for employees who were adversely affected. In this regard, when the Union learned about the changes and asked to bargain about the impact and implementation of these changes, INS refused to bargain.

#### **E. Removal of the two-way radios**

The GC of the FLRA urges that the removal of the two-way radios from the government cars also constitutes a change in conditions of employment requiring advance notification to the Union, with an opportunity to bargain about the change. To the extent that the two-way radios were part of the sign-in/sign-out procedures for the SAs in ACAP, I have already concluded, as discussed above, that requiring the employees temporarily assigned to the correctional facilities as part of IHP to physically sign in and out at the correctional facilities was consistent with the past practice of having employees temporarily assigned to a work place sign in at that work place. Thus, having the SAs temporarily assigned to the correctional facilities, as part of IHP, sign in at those facilities, and not by using the two-way radios as they had under ACAP, was not a change in existing conditions of employment. The GC argues further that the presence of the two-way radios in the government cars was itself a condition of employment that the INS could not change without notifying the Union and giving it an opportunity to bargain. I need not reach the merits of this contention because the Complaint in this matter only alleges a violation of the Statute with respect to the change in the sign-in/sign-out procedures.

In light of all of the foregoing, therefore, I conclude that INS violated § 7116(a)(1) and (5) of the Statute by changing the sign-in/sign-out procedures for those employees temporarily assigned to IHP, without providing AFGE Local 1917 with notice and an opportunity to request bargaining and by refusing to bargain about the change when so requested by the Union.

#### ORDER

Pursuant to § 2423.29 of the Federal Labor Relations Authority's Rules and Regulations and § 7118 of the Statute, it is hereby ordered that the U.S. Department of Justice,

Immigration and Naturalization Service, Eastern Region,  
New York District, New York, New York, shall:

1. Cease and desist from:

(a) Failing and refusing to give adequate notice to the American Federation of Government Employees, AFL-CIO, the exclusive representative of its employees and its agent the American Federation of Government Employees, AFL-CIO, Local No. 1917, concerning proposals to change sign-in/sign-out procedures applicable to unit employees.

(b) Failing and refusing to bargain in good faith with the American Federation of Government Employees, AFL-CIO, the exclusive representative of its employees and its agent the American Federation of Government Employees, AFL-CIO, Local No. 1917, concerning changes in sign-in/sign-out procedures applicable to unit employees.

(c) In any like or related manner, interfering with, restraining, or coercing its employees in the exercise of their rights assured by the Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute:

(a) Rescind its unilateral April 1994 termination of the sign-in/sign-out procedure which had previously applied to Special Agents assigned to its IHP program which had permitted them to sign in and sign out, including their travel time.

(b) Restore the *status quo ante* under which Special Agents assigned to its IHP program are permitted to sign in and out in such a way as to permit them to charge as work time, all time, in excess of normal commuting time between their homes and the INS' District Office in New York City, which is spent traveling to and from state correctional facilities.

(c) Make employees whole for any losses in pay and/or other benefits which they incurred as a result of the unilateral changes in their sign-in/sign-out procedure.

(d) Notify the American Federation of Government Employees, AFL-CIO the exclusive representative of its employees and its agent the American Federation of Government Employees, AFL-CIO, Local No. 1917, concerning any future proposals to change any condition of employment, including sign-in/sign-out procedures, affecting unit employees.

(e) Upon request, negotiate with the American Federation of Government Employees, AFL-CIO, the exclusive representative of its employees and its agent the American Federation of Government Employees, AFL-CIO, Local No. 1917, concerning the substance of proposed changes to sign-in/sign-out procedures affecting unit employees and over the impact, implementation and appropriate arrangements for unit employees adversely affected by such changes.

(f) Post at all offices at the New York District where bargaining unit employees represented by the American Federation of Government Employees, Local 1917, AFL-CIO, are located, copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the District Director and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. Reasonable steps shall be taken to insure that such Notices are not altered, defaced, or covered by any other material.

(g) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director of the Washington Regional Office, Federal Labor Relations Authority, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply.

Issued, Washington, DC, July 17, 1995

SAMUEL A. CHAITOVITZ  
Chief Administrative Law

Judge



**NOTICE TO ALL EMPLOYEES**

**AS ORDERED BY THE FEDERAL LABOR RELATIONS AUTHORITY**

**AND TO EFFECTUATE THE POLICIES OF THE**

**FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE**

**WE NOTIFY OUR EMPLOYEES THAT:**

WE WILL NOT fail and refuse to give adequate notice to the American Federation of Government Employees, AFL-CIO, the exclusive representative of our employees and its agent the American Federation of Government Employees, AFL-CIO, Local No. 1917, concerning changes in sign-in/sign-out procedures applicable to unit employees.

WE WILL NOT fail and refuse to bargain in good faith with the American Federation of Government Employees, AFL-CIO, the exclusive representative of our employees and its agent the American Federation of Government Employees, AFL-CIO, Local No. 1917, concerning changes in sign-in/sign-out procedures applicable to unit employees.

WE WILL NOT in any like or related manner, interfere with, restrain, or coerce our employees in the exercise of their rights assured by the Statute.

WE WILL rescind our unilateral April 1994 termination of the sign-in/sign-out procedure which had previously applied to Special Agents assigned to the IHP program which had permitted them to sign in and sign out, by including their travel time.

WE WILL restore the *status quo ante* under which Special Agents assigned to the IHP program are permitted to sign in and out in such a way as to permit them to charge as work time all time, in excess of normal commuting time between their homes and INS' District Office in New York City, which is spent traveling to and from state correctional facilities.

WE WILL make employees whole for any losses in pay and/or other benefits which they incurred as a result of the unilateral changes in their sign-in/sign-out procedure.

WE WILL notify the American Federation of Government Employees, AFL-CIO, the exclusive representative of our employees and its agent the American Federation of Government Employees, AFL-CIO, Local No. 1917 concerning any future proposals to change any condition of employment,

including sign-in/sign-out procedures, affecting unit employees.

WE WILL, upon request, negotiate with the American Federation of Government Employees, AFL-CIO, the exclusive representative of our employees and its agent the American Federation of Government Employees, AFL-CIO, Local No. 1917 concerning the substance of proposed changes to sign-in/sign-out procedures affecting unit employees and over the impact, implementation and appropriate arrangements for unit employees adversely affected by such changes.

(Activity)

Date:

By:

(Signature)

(Title)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Regional Director of the Federal Labor Relations Authority, Boston Region, 99 Summer Street, Suite 1500, Boston, MA 02110-1200, and whose telephone number is: (617) 424-5730.

CERTIFICATE OF SERVICE

I hereby certify that copies of this DECISION issued by SAMUEL A. CHAITOVITZ, Chief Administrative Law Judge, in Case No. BY-CA-40920, were sent to the following parties in the manner indicated:

**CERTIFIED MAIL:**

Dennis H. Desautels, Esq.  
U.S. Department of Justice  
Immigration and Naturalization Service  
Eastern Regional Office  
70 Kimball Avenue  
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