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IN THE FACTFINDING PROCEEDINGS

PURSUANT TO MMBA

TEAMSTERS, LOCAL 856,

Union,

and

COUNTY OF ALAMEDA, PROBATION
DEPARTMENT

Employer.

(Domestic Violence Supervision, Caseload
Management Standards Policy)

PERB Case No. SF-IM-250-M

FACTFINDING REPORT AND
RECOMMENDATION FOR SETTLEMENT
AFTER HEARING

Chairperson:	Martin Gran, Neutral Chairperson
Employer Panel Member:	Jeff Bailey, IEDA
Union Panel Member:	Susanna Farber, Teamsters Local 856
For the Union:	Katie McDonagh, Esq. Weinberg, Roger & Rosenfeld
For the Employer:	Tivonna D. Stern, Esq. Office of County Counsel, County of Alameda
Hearing Date:	October 17 & 18, 2022

I. PROCEDURAL BACKGROUND

The Alameda County Probation Department (“Department”) and Teamsters, Local 856 (“Union”) are parties to a Memorandum of Understanding. The parties were unable to reach agreement on a new Domestic Violence Supervision Caseload Management Standard Policy (“DV Policy”), and a number of issues remain in dispute. (The Department’s proposed DV Policy will be referred to herein as the “Proposed DV Policy,” so as not to be confused with what will eventually become the new DV Policy.)

The Department declared impasse on June 27, 2022, and the Union filed a request for factfinding on July 12, 2022. The parties mutually selected Arbitrator Martin Gran to chair the factfinding panel concerning the dispute. The parties properly selected their panel members, as listed above. The Panel convened factfinding hearings on October 17 & 18, 2022 via video conference.

Both parties presented facts through their advocates (listed above) and introduced documents and witness testimony. After considering the arguments made by the parties, the Factfinding Panel makes recommendations for settlement in the sections below.

II. FACTFINDING CRITERIA

The Panel has considered, and been guided by, criteria set forth in California Government Code Section 3505.4(d), which states:

In arriving at their findings and recommendations, the Panel shall consider, weigh and be guided by the following criteria:

1. State and federal laws that are applicable to the employer.
2. Local rules, regulations or ordinances.
3. Stipulations of the parties.
4. The interests and welfare of the public and the financial ability of the public agency.
5. Comparison of the wages, hours and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.

6. The consumer price index for goods and services, commonly known as the cost of living.
7. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
8. Any other factors, not confined to those specified in paragraphs (1) through (7), inclusive, which are normally and traditionally taken into consideration in making such findings and recommendations.

The Panel notes the following:

- **State and Federal Laws Applicable to the Employer**

The hearing was conducted in compliance with Government Code section 3504, *et seq.* (MMBA), and the time limits were met or waived by the parties.

- **Stipulations of the Parties**

The parties did not make any stipulations.

- **The Interests and Welfare of the Public and the Financial Ability of the Employer**

In their Closing Briefs, both sides cite this factor extensively in support of their respective positions.

- **Consumer Price Index**

Because the issue at factfinding did not relate to wages or benefits, neither party presented evidence about the Consumer Price Index.

- **Overall Compensation**

The Employer provided information about the overall compensation for deputy probation officers at seven public agencies, including County Exhibit (“CX”) 11. However, the issues at factfinding were not related to wages or benefits, so overall compensation is not a factor in the Panel’s recommendations.

- **Other Factors**

The panel considered all the facts and arguments presented at the hearing by both parties, including arguments regarding such policies (or the lack thereof) in other comparable jurisdictions.

III. DISCUSSION OF ISSUES IN DISPUTE AND RECOMMENDATIONS FOR SETTLEMENT

After a review of the facts and arguments presented by both parties, the Factfinding Panel offers the following discussion regarding the issues in dispute. We begin with background information to contextualize the disputed issues.

While the current dispute between the parties involves caseload management standards for the Department's Domestic Violence ("DV") Unit, it is helpful to understand that the negotiations over the new DV Policy followed protracted negotiations over the Department's General Supervision Case Management Standards Policy ("General Policy"). During those negotiations, the parties agreed to "carve out" DV and other specialized units from the General Policy. The parties did not reach agreement over the General Policy, and the dispute was submitted to factfinding under the MMBA. The factfinding panel in that case recommended terms of settlement, including a time study that would allow for a factual basis for re-evaluating the General Policy's contact and caseload management standards. (UX 9 at pp. 14, 17.)

In June 2021, the Alameda County Board of Supervisors unilaterally implemented the County's last, best, final offer ("LBFO") regarding the Department's General Policy. The implemented policy did not incorporate the Panel's recommendation for a time study. (See CX 3, "Caseload Management Standards Policy, Adult Field Services Manual Section 400," which is the Department's current General Policy. The General Policy included: (a) revised contact standards (i.e., standards governing how often General Supervision Deputy Probation Officers ("DPOs") needed to contact individuals on probation (aka, "clients")); and (b) a stated goal of maintaining "as close to industry standards as possible within existing resources," meaning a "50:1 active status ratio for moderate to high-risk caseloads." (CX 3 at p. 8.)

Following the County's implementation of the General Policy, the County began negotiations with the Union regarding the DV Policy. The Department's stated goals in proposing its Proposed DV Policy was to reduce recidivism, facilitate long-lasting behavioral

change among the adult population, and address what the Department views as variances in supervision and client engagement by different DV Deputy Probation Officers.

The Union, on the other hand, agrees with many of the County's goals described above, but has raised several concerns over the Department's Proposed DV Policy that it believes will lead to the policy's failure: (a) to better protect the community; and (b) to protect the safety of the Department's DPOs. While the Union raised multiple concerns during negotiations, it did not provide a written counter-proposal until the Neutral Chairperson requested one on the first day of hearing. It was provided at the start of the second day of hearing.¹

The following terms of the Proposed DV Policy are in dispute:

A. Time Study

Throughout negotiations over a possible Time Study for the DV Unit, the parties remained far apart. The Union held firm on its proposal that the Time Study occur *prior to* implementation of DV Policy, while the Department held firm on its proposal that it occur one year *after* implementation of the DV Policy. The Union also argued that the Time Study should be based on what it considers to be the current operative contact standard of one meeting with each client per month, while the Department proposed that the Study be based on the contact standards listed in the Appendix of the Proposed DV Policy. (UX 13; CX 3.)

The Union's rationale was that the Time Study would inform the Parties as to the appropriate caseload and contact standards for the Unit. The Time Study would track the individual tasks normally associated with each DV case in light of expected contacts and other demands on DPOs' time, including approved time off, training on developments in the law, firearms training, and the like. The Union proposed that: (a) the Time Study take place prior to implementation of the DV Policy; and (b) it be based on what it considers to be the currently-operative contact standard of one contact with each Client per month.² Further, the Union's

¹ In response to the Neutral Chair's request for the Union's LBFO on the second day of hearing, the Union submitted Union Exhibit 13, a document it entitled "Proposed Updates to the Domestic Violence Caseload Management Standards Policy." In introducing that document, the Union stated that, if the terms of its LBFO document were met, the Union would have no objection to the County's Proposed DV Policy, except to the extent the Department's policy conflicted with its LBFO.

² See UX 11, a 9/16/2022 email from Unit Supervisor Candise Draper to Local 856 Job Steward Kevin Bryant, stating, "[M]anagement has advised me that the DV and [Sex Offender Unit] DPOs are to see their clients

proposal is that the results of the Study would inform the parties of both the proper number of cases DV DPOs should be assigned (i.e., caseload), and the proper number of client contacts DPOs should be required to meet (i.e., contact standards).

In its Closing Brief, the Department discussed how, during negotiations, it offered the Union a time and motion study one year post-implementation of the DV Policy. (See County's Closing Brief at pp. 9-10.) The Union rejected that proposal – insisting on a pre-implementation study. The parties did not agree on terms, with the result being that the Department's LBFO contained no Time Study, and the Union's LBFO contained a pre-implementation Time Study based on one contact per month.³

Panel's Recommendation for Settlement re Time Study: The DV Policy should include a provision for a Time Study to be undertaken once the DV Policy has been implemented and operational for one year. The Time Study should be based on the contact standards set forth in Appendix A of the Department's Proposed DV Policy. The Policy should contain a clause stating that the Department and the Union agree that: (a) following the Study, the Department will make changes to the DV caseload and contact standards, consistent with Study's results without formal meet and confer; (b) the only circumstance under which changes would not be made would be if the Study completely validates the Appendix A caseload numbers and contact standards; and (c) prior to making such changes, the parties will engage in discussions regarding such changes. (For additional information regarding Caseload, Contact Standards, and Discipline, see below.)

Rationale: Interest and welfare of the public.

As discussed at length below, time studies provide the most reliable and effective way to begin discussions about caseload and contact standards. It allows the parties to use evidence-

monthly and that the old policy of MIN/MED/HIGH previously used before the current CMS policy is obsolete.”; see also County's Closing Brief, p. 2, f.n. 5 describing the above as a “long-established past practice.”

³ Generally, the Department argues that State law, AB 1950, effective January 1, 2021, dramatically reduced the number of years offenders could be on probation, thus reducing DV caseloads. Further, it argues that, with these lowered caseloads for probation officers, DV DPOs should have no problem meeting contact standards based on current caseloads. In fact, the evidence introduced at hearing supported this contention. Even Union witnesses agreed that current caseloads were, on average, around 25 cases, as opposed to previous caseloads of 50 – 80 per DV DPO. The Department's point is that, with these relatively low caseloads, the new proposed contact standards should be attainable, thus, (it argues) the Proposed DV Policy can be implemented for a year and studied at the end of that year. The Union argues that current caseloads cannot be guaranteed in the future.

based information to make informed decisions about how best to manage and deploy its resources, which in turn, should promote overall efficiency within the DV Unit and best promote the goals of officer and public safety, as well as efficiency in carrying out the goals of the department: specifically, protecting the public through reducing recidivism, facilitating long-lasting behavioral change among the adult client population, and addressing what the Department views as variances between various DV DPOs in terms of how they engage with clients.

B. Caseload Limits

As discussed above, in its LBFO, the Union proposed that the appropriate number of cases per DPO should be based on a Time Study. (UX 13.) The Department, on the other hand, did not include any caseload caps in its proposed DV Policy, and none of the Department's witnesses testified that the 50:1 ratio would apply to DV DPOs. In fact, the Department, in its Closing Brief, flatly stated that "The caseload standards reflected in the [General Supervision] policy do not apply to the Department's Domestic Violence Unit."⁴ (Department's Closing Brief p. 3.)

The Union offered evidence from two Bay Area counties purporting to show caseload limits for its probation officers. For different reasons, that evidence fails to support the Union's stated position that caseloads be set via the results of a Time Study. The Union first submitted the Santa Clara County Probation Department Procedures Manual for Domestic Violence Supervision Standard. (UX 12.) That document states that, "The *recommended* maximum caseload size for Domestic Violence Specialized Supervision is 50." (*Id.*, emphasis added.) Again, it is not clear how this evidence supports the Union's position that caseloads should be determined via the results of a Time Study.

Second, the Union submitted a one-page document from Marin County – apparently from the Marin County Probation Department – that the Neutral Chair found confusing at best. The document states that the Marin County Domestic Violence Court's governing rules provide that,

⁴ The Department's Proposed DV Policy contains a clause directing readers of the Policy to familiarize themselves with the terms of the General Policy for further details and definitions relevant to the Proposed DV Policy. (CX 1 at p. 2.) Given the sentence of the Department's Closing Brief, quoted above, the Union need not be concerned that the Department will argue that the 50:1 caseload ratio was somehow incorporated by reference into the DV Policy.

“the Court can accommodate up to thirty (30) defendants.” (UX 6.) The document goes on to explain that, should the number of defendants exceed 30, the assigned DPO “shall notify the presiding judge, as well as the DA and PD assigned to DVC and collaborate on a plan to bring the number of assigned probationers down. [The assigned DPO] will make a recommendation to the DVC Team and/or the Court for who the best candidates for removal from DVC are based on” listed criteria. There are several unanswered questions here. First, presumably, “DVC” is the Domestic Violence Court; however, that is not entirely clear from this record in the context of the document. Second, the plan envisions a process for reducing the number of probationers assigned to Domestic Violence Court, but it is not clear whether (and, if so, how) this would lead to reduced caseloads for individual DPOs. Lastly, there is no information provided as to how the policy’s required corroboration with other stakeholders is supposed to work in theory, let alone how it actually works in practice. Without reliable and admissible evidence of these points, the Neutral Panel member cannot rely on Union Exhibit 6. Moreover, it is unclear how the exhibit supports the Union’s proposal that caseloads be determined via the results of a Time Study.

As for the Department’s evidence on this issue, Deputy Chief Probation Officer Dante Cercone testified that he was not aware of any other jurisdictions whose policies included caps on caseloads. Beyond that, the Department did not submit any hard evidence on this point.

Thus, the Factfinding Panel is tasked with making recommendations on whether the DV Policy should include a provision for caseload caps based on a Time Study or, alternatively, remain mute on that subject.

The American Probation and Parole Association (“APPA”) article entitled “Caseload Standards for Probation and Parole Officers” is enlightening on this subject. (UX 5.) The article first describes how challenging it is for policymakers to decide upon appropriate caseload sizes, noting that such decisions are often “left to the vagaries of the political and budget process at the local, county, state and tribal level.” (UX 5 at p. 1.) The article next describes how important it is to achieve proper caseload sizes, as follows:

Those caseloads must be of a size that provides officers with enough time to devote to each offender to achieve supervision objectives. Just as teachers with overly large classes will be reduced to just maintaining order and sending misbehaving students to the principal’s office, PPOs with overly large caseloads can do little more than monitor the offenders and return the non-

compliant ones to court. Appropriate class/caseload size is the necessary precondition to effectiveness in these two systems. Without adequate time for supervision (or teaching), effectiveness is just a pipe dream.

(*Id.* at p. 3.)

The article continues:

The caseload standards for probation and parole should be viewed as the first step in a process that involves a thorough review and analysis of each agency's individual workload, resources and policies. The terms workload and caseload are often used interchangeably, and incorrectly. A caseload is the number of individual offenders assigned to an officer or team for supervision or monitoring. Workload is the total amount of time that the required tasks and activities in a particular caseload generate for the individual PPO or team. The discussion of workload only begins with the caseload, or number of cases assigned.

It must proceed to a review of agency policy, which determines what will be required for an individual case. Other factors such as statutes, standards and administrative regulations will also affect the workload dimensions of a case. Only when such a thorough analysis is done can the true workload impact of a given caseload number be ascertained. As the [Child Welfare League of America] notes[,] although the standards recommend "caseload ratios for each area of child welfare practice, **workloads are best determined through careful time studies conducted within the individual agency.**"

(*Id.* at pp. 5-6, emphasis added.)

The article goes on to offer *suggested* caseload standards designed to drive effective practices and guide decision-makers.⁵

Panel's Recommendation for Settlement re Caseload: The Panel recommends that the DV Policy include a provision by which the Parties use the results of the Time Study to implement caseload numbers, consistent with those results. That DV Policy provision should be clear that such numbers are to be goals that would be subject to regular and ongoing assessment and adjustment.

⁵ The article states that, "the following caseload standards are designed to drive effective practices and guide decision-makers." The article provides that, for adult offenders: "Intensive": 20:1; "Moderate to High Risk": 50:1; and "Low Risk": 200:1. (UX 5 at p. 6-7.)

Rationale re Caseload: Interest and welfare of the public.

As discussed above, time studies provide the most reliable and effective way to begin discussions about caseload and contact standards. It allows the parties to use evidence-based information to inform the discussion. As a result, the parties can make informed decisions about how best to manage and deploy its resources, which in turn, should promote overall efficiency within the DV Unit and best promote the goals of safely and efficiently carrying out the goals of the department: specifically, protecting the public by reducing recidivation and protecting DPO safety. Here, proper caseloads will help ensure that the workload of each DV DPO is attainable. As the APPA article states, “Those caseloads must be of a size that provides officers with enough time to devote to each offender to achieve supervision objectives. ... PPOs with overly large caseloads can do little more than monitor the offenders and return the non-compliant ones to court. ... Without adequate time for supervision, ... effectiveness is just a pipe dream.” (UX 5 at p. 3.)

C. “No Discipline” Periods

The Union’s LBFO contains two proposals for periods during which the Department would be prohibited from disciplining DV DPOs for failure to meet contact standards. The first is triggered by a DPO being assigned “more than the appropriate number of cases.” In that event, the Union’s LBFO proposes that the DPO “not receive discipline based on the failure to make the required number of contacts for the period of time that the DPO has the unusually large caseload.” (UX 13.)

The second proposal for such relief is triggered when a DPO makes a request to their Unit Supervisor to adjust either their caseload or the Policy’s contact standards requirements because meeting contact standards are unattainable. In that case, the Union proposes that the DPO not be disciplined while the caseload is being adjusted.

The Department’s LBFO, i.e., the Proposed DV Policy, acknowledges that there will be times when “situations will arise in which these standards are not attainable as a result of

circumstances beyond the control of the DPO (e.g., unforeseen circumstances, approved leave, training, etc.).” (CX 1 at p. 2.) In such cases, the DPO is expected to discuss the matter with their Unit Supervisor to “determine the appropriate action.” The Department considers the Union’s demand for a specific ban on discipline under certain circumstances unreasonable because (it argues) the above acknowledgement that the standards may be unattainable at times “inherently affords sufficient protection from any unwarranted discipline ...” The Department also notes that, in any case, any discipline would be subject to “the legal standards for imposing discipline,” thereby also offering DPOs further protection from unwarranted discipline. (Department’s Closing Brief at p. 7.)

Panel’s Recommendation for Settlement re Discipline: First, the Panel wishes to make clear that any relief from DPOs being disciplined regarding contact standards applies to that issue only, and even then, only applies to good faith attempts to seek adjustments that would allow them to meet the Policy’s contact standards, or adjusted contact standards, after consultation with their Unit Supervisor. In other words, the Department may take disciplinary action towards any DPO who willfully and grossly fails to meet contact standards.

Second, the Panel sees the issue of relief from discipline to be intrinsically related to the Union’s Time Study proposal. As detailed above, the Panel has recommended that a Time Study be taken one year after implementation of the DV Policy, and that it be based on the caseload reflected in the proposed Policy, i.e., 50:1 for moderate- and high-risk offenders. The Panel’s rationale for this recommendation is that the 50:1 ratio is acceptable as a starting point for the Time Study because DPOs will be protected from discipline during: (a) the implementation year; (b) the duration of the Time Study, and (c) any time needed to adjust caseloads or contacts in light of the Time Study’s results. Thus, the Panel recommends relief from discipline vis-à-vis the Time Study for those three periods, absent willful or gross failure to achieve compliance with applicable contact standards.

Likewise, the Panel recommends limited relief from discipline for DPOs who request adjustments in caseload or contacts from their Unit Supervisors, as follows: DPOs who request adjustments from their Unit Supervisor will be given relief from discipline

beginning when the DPO makes such a request in writing and ending when the Unit Supervisor and the DPO next meet for their monthly conference.

Rationale: During periods where caseloads caps are being implemented, studied, and perhaps, adjusted, based on the results of the Time Study, it would be unfair to hold DPOs to contact standards prior to them being validated by evidence-based data and analysis. Likewise, a limited reprieve from discipline upon a DPO's request for an adjustment is appropriate, as it allows management to evaluate the merits of the request.⁶

D. Contact Standards: Announced vs. Unannounced Home Visits

The Union's LBFO proposes a concept at odds with the Department's proposed DV Policy. The Union proposes that DPOs have discretion to make either announced or unannounced home visits. The Department's proposed DV Policy requires *unannounced* home visits absent preapproval for announced visits by a DPO's immediate supervisor. (CX 1 at p. 9.)

The Union argues that announced visits are often preferable due to the fact that many DV clients are high-risk (and therefore potentially violent) offenders, and many DPOs do not feel safe making unannounced visits unless there is a specific reason to do so. The Union also argues that unannounced visits can waste time and resources compared to announced visits. Unannounced visits are often carried out in pairs or teams of officers, take hours to complete, and often result in unsuccessful contacts. The Department, on the other hand, seeks to create consistency across the DV Unit in terms of DPOs making similar numbers of unannounced home visits.

Panel's Recommendation for Settlement re Contact Standards: Home Visits: The DV Policy should include a provision giving DPOs the discretion to make either announced or unannounced home visits. This discretion should not be unlimited. DPOs should remain subject to supervision by Unit Supervisors, and Unit Supervisors should be expected to review a DPO's past decisions regarding this issue. If there is good reason to

⁶ In its LBFO, the Union phrased its proposal as DPO seeking relief based on excessive caseload or unusual circumstances "will receive relief and/or not be disciplined while caseload is being adjusted." The Neutral Chair does not find that language acceptable, as it assumes all requests for relief are justified.

do so, the Unit Supervisor should be able to set conditions under which the DPO should make unannounced home visits in the future.

Rationale: The Union's arguments that its proposal advances officer safety and efficiency of operations and resources is more persuasive than the Department's stated goal of establishing consistency across the DV Unit.

E. Contact Standards: Unsuccessful Attempts to Contact Clients

The Union proposes that two attempts to contact a client (even if unsuccessful) should be deemed as meeting contact standards. In that case, the Union proposes that the DPO should establish an alternative contact plan for the client. The Department opposes any formulas converting unsuccessful attempts into "successful" attempts, on the grounds that such a rule would undermine contact standards, negatively impact the client's progress on probation, and, therefore, negatively impact public safety. The Department notes that unsuccessful contacts would, in all likelihood, be considered "circumstances beyond the DPO's control" that could justify a DPO not meeting contact standards.

Panel's Recommendation for Settlement: Contact Standards: Unsuccessful Attempts to Contact Client: The Panel finds the Department's arguments in this regard persuasive and does not recommend that the Union's proposal be included as part of an overall settlement.

Rationale: A formulaic approach to unsuccessful attempts to contact clients would undermine contact standards, negatively impact the client's progress on probation, and, therefore, negatively impact public safety.

F. Contact Standards: Use of Approved Time off is a Valid Reason for Contacts Not to be Made

The Union's LBFO contains a minor point that reflects more semantics than substance. The Department's proposed DV Policy states that: "situations will arise in which these [contact]

standards are not attainable as a result of circumstances beyond the control of the DPO (e.g., unforeseen circumstances, approved leave, training etc.).” In such cases, the DPO is expected to discuss the matter with their Unit Supervisor to “determine the appropriate action.” The Union argues that an employee using available time off is a valid reason for contacts not to be made, even though it is foreseeable that an employee would use available time off.

The Department correctly notes that the existing language already acknowledges that the use of approved leave is listed in the sentence setting forth some of the reasons why contact standards might be unattainable.

The Panel concludes that the parties are on the same page, but that the language of the DV Policy could be reworded.

Panel’s Recommendation for Settlement re Contact Standards: Use of Approved Time off is a Valid Reason for Contacts Not to be Made: The Panel recommends that the above language be revised to make clear that a DPOs use of approved leave is a valid justification for contact standards not being met, even though it is not an unforeseen event.

Rationale: Clear policy language will have the effect of making the operations of the Unit run more smoothly, thus improving the efficiency of the Unit’s resources.

RECOMMENDATIONS FOR SETTLEMENT

- A. **Panel’s Recommendation for Settlement re Time Study:** The DV Policy should include a provision for a Time Study to be undertaken once the DV Policy has been implemented and operational for one year. The Time Study should be based on the contact standards set forth in Appendix A of the Department’s Proposed DV Policy. The Policy should contain a clause stating that the Department and the Union agree that: (a) following the Study, the Department will make changes to the DV caseload and contact standards, consistent with Study’s results without formal meet and confer; (b) the only circumstance under which changes would not be made would be if the Study completely validates the Appendix A caseload numbers and contact standards; and (c) prior to making such changes, the parties will engage in discussions regarding such changes. (For additional information regarding Caseload, Contact Standards, and Discipline, see below.)

B. Panel's Recommendation for Settlement re Caseload: The Panel recommends that the DV Policy include a provision by which the Parties use the results of the Time Study to implement caseload numbers, consistent with those results. That DV Policy provision should be clear that such numbers are goals that would be subject to regular and ongoing assessment and adjustment.

C. Panel's Recommendation for Settlement re Discipline: First, the Panel wishes to make clear that any relief from DPOs being disciplined regarding contact standards applies to that issue only, and even then, only applies to good faith attempts to seek adjustments that would allow them to meet the Policy's contact standards, or adjusted contact standards, after consultation with their Unit Supervisor. In other words, the Department may take disciplinary action towards any DPO who willfully and grossly fails to meet contact standards.

Second, the Panel sees the issue of relief from discipline to be intrinsically related to the Union's Time Study proposal. As detailed above, the Panel has recommended that a Time Study be taken one year after implementation of the DV Policy, and that it be based on the caseload reflected in the proposed Policy, i.e., 50:1 for moderate- and high-risk offenders. The Panel's rationale for this recommendation is that the 50:1 ratio is acceptable as a starting point for the Time Study because DPOs will be protected from discipline during: (a) the implementation year; (b) the duration of the Time Study, and (c) any time needed to adjust caseloads or contacts in light of the Time Study results. Thus, the Panel recommends relief from discipline vis-à-vis the Time Study for those three periods, absent willful or gross failure to achieve compliance with applicable contact standards.

Likewise, the Panel recommends limited relief from discipline for DPOs who request adjustments in caseload or contacts from their Unit Supervisors, as follows: DPOs who request adjustments from their Unit Supervisor will be given relief from discipline beginning when the DPO makes such a request in writing and ending when the Unit Supervisor and the DPO next meet for their monthly conference.

D. Panel's Recommendation for Settlement re Contact Standards: Home Visits: The DV Policy should include a provision giving DPOs the discretion to make either announced or unannounced home visits. This discretion should not be unlimited. DPOs should remain subject to supervision by Unit Supervisors, and Unit Supervisors should be expected to review a DPO's past decisions regarding this issue. If there is good reason to do so, the Unit Supervisor should be able to set conditions under which the DPO should make unannounced home visits in the future.

E. Panel's Recommendation for Settlement: Contact Standards: Unsuccessful Attempts to Contact Client: The Panel finds the Department's arguments in this regard persuasive and does not recommend that the Union's proposal be included as part of an overall settlement.

- F. **Panel's Recommendation for Settlement re Contact Standards: Use of Approved Time off is a Valid Reason for Contacts Not to be Made:** The Panel recommends that the above language be revised to make clear that a DPO's use of approved leave is a valid justification for contact standards not being met, even though it is not an unforeseen event.

CONCLUSION


It is the hope of the Neutral Chair that these recommendations be used by the parties to negotiate a settlement to the current impasse.

Dated: February 13, 2023



Martin Gran, Esq., Neutral Chairperson

Concur X _____
Concur in parts _____
Dissent in parts _____
Dissent _____



Susanna Farber, Union Panel Member

Concur _____
Concur in parts D, E, & F _____
Dissent in parts A, B, & C _____
Dissent _____



Jeff Bailey, Employer Panel Member