



# Legislative Testimony

OREGON DEPARTMENT OF CORRECTIONS

February 26, 2014

The Honorable Jackie Winters, Co-Chair  
The Honorable Jennifer Williamson, Co-Chair  
Joint Committee on Ways and Means Subcommittee on Public Safety

## **RE: Administrative Leave**

Co-Chairs Winters and Williamson and members of the Joint Ways and Means Subcommittee on Public Safety, I am Colette S. Peters, Director of the Oregon Department of Corrections.

I am here to testify before you today to explain the department's practices and share some statistics on administrative leave for our employees.

Given the Oregon Department of Corrections' duty to protect adults in custody (AIC) and maintain the safety and security of our facilities, we have an inherent responsibility to maintain a safe and healthy environment for staff and adults in our custody. We do everything in our power to mitigate any risk, even when an employee has been alleged to have done something wrong.

Employees may be placed on administrative leave (with or without pay) in circumstances following an allegation of misconduct, or for personnel issues, when their presence is a potential risk to themselves or others, and that risk cannot be mitigated except by duty stationing the individual at home.

This is a decision not entered into lightly given the cost, public perception, and the potential damage to an exonerated employee's reputation when they are returned to work. These decisions are staffed and all opportunities for mitigating risk, prior to placing an employee on administrative leave, are considered and explored.

Once the claim is made, an investigation is required – either internally by DOC's Inspector General or Human Resources Division, or by an outside law enforcement agency.

Staff duty stationed at home are expected to be at their residence between the hours of 8:00 a.m. and 5:00 p.m., and available by phone during that timeframe with the exception of a one-hour lunch break.

Until a conclusion is verified, the employee is assured of certain rights, and the department must continue to pay the staff member as a regular employee. This is per collective bargaining agreements (AOCE Article 47/AFSCME 47) for represented staff, and the statewide Management Service Discipline and Dismissal Policy (70.000.02) for non-represented staff. DOC works closely with the State Police, district attorneys, the FBI, local law enforcement, and the State or U.S. Department of Justice during the investigative process.

In most cases when employees are investigated, they remain in their current job. When the risk is too great and that is not an option, employees may be reassigned rather than being duty stationed at home. To

move an employee from one work location to another requires due process. And, there may still be risk. As an example, inmates communicate with one another statewide. Employees accused of sexual abuse or harassment against an inmate can be at risk of retaliation or vendetta in any of our facilities.

We are unaware of any existing industry or national standards when it comes to placing employees on administrative leave. We believe that the reason for the lack of standards is that each case must be reviewed and determined based on its individual circumstances. With that, I would like to share some of our statistics with you.

After an exhaustive review, we believe the department's use of administrative leave is appropriate. In 2013, there were 392 investigations of DOC employees initiated under the investigative authority of DOC's Inspector General or the Human Resources Division. Of those 392 staff who were investigated, 43 employees were duty stationed at home with an average stay of one month and 16 days. Another 16 employees were duty stationed at home with cases initiated in prior years. The average total length of stay for these 59 employees in 2013 was two months and 4 days.

Only three of those 59 employees were out for more than 12 months. These three cases involve the most complex circumstances posing unmitigated risk, requiring collaboration from multiple state entities, and thorough scrutiny.

We currently have two outstanding cases with pending litigation that are greatly skewing our data. One employee has been duty stationed at home for 18 months, amounting to \$75,395 in salary costs, and the other employee for 14 ½ months, amounting \$49,391 in salary costs.

Total salary paid to duty stationed staff in 2013	\$580,693
Total number of staff <b>currently</b> (as of 2/24/14) duty stationed at home	11
Yearly total number of <b>all staff</b> investigations (3-year average)	480
a. Staff investigations referred to state police (3-year average)	12.7
b. Staff investigations resulting in criminal prosecution (3-year average) (information provided by State Police)	2.3

Thank you for your time and consideration. Please know that my Executive Team and I personally review every case monthly to ensure the investigations are moving, and that we do not have individuals duty stationed at home longer than is necessary. DOC has worked over the years to improve this process and works collaboratively with other public safety agencies to mitigate the time and costs associated with these investigations.

*Submitted by:*  
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