

Joint Hearing: House and Senate Labor and Industry Committees

Experience in PA Department of Corrections Cases

In 2011, the PA Department of Corrections (DOC) presented us with one of the most shocking attacks on individual constitutional due process rights that we have ever seen. In one of our Western Institutions, an inmate alleged that officers physically and psychologically abused him. The DOC responded by opening an investigation, an appropriate action. It then, however, suspended a large number of officers without pay and benefits, and without the constitutionally required pre-suspension hearing.

The Security Captain called one officer at home a few hours before his shift and told him not to come in because he was suspended without pay and benefits. The officer asked why he was being suspended and for how long? The Captain replied, "I don't know, but don't come in until we tell you to?" The officer called his local union officials to determine if they knew any reason for the suspension, but no one did. A day or so later, the officer received a written letter from the Superintendent, signed on behalf of the Secretary of the Department of Corrections, advising him that he was suspended without pay and benefits "pending investigation." The letter contained no charges, and the officer was never interviewed about any potential misconduct or misstep.

The DOC suspended several other officers. Any officer that was working at the time was met by security and escorted from the institution with nothing more than a cursory statement that they were suspended pending investigation. These suspensions occurred on April 1, 2011. The PSCOA continued to demand information as to what served as the basis for these suspensions, but the DOC stuck to its mantra that the

suspensions were “administrative” and that disciplinary proceedings, if any, would come later.

This was an incredible situation: numerous officers suspended without pay and benefits, given no charges and, absent charges, given no opportunity to respond to an allegation of wrongdoing. The brief and informal due process hearing did not occur until March 30, 2012, a full year after having been deprived of their jobs.

The damages inflicted by the DOC’s actions are nearly immeasurable. First, there is monetary loss. The lack of a regular paycheck impacts nearly every aspect of daily living: the ability to pay a mortgage or rent, to buy food, to pay the water bill, sewer bill, cable bill, etc. Second, there is the emotional damage. How does an officer suspended as these gentlemen were, explain to an 8 or 9 year old child why Dad no longer has his job, when Dad does not know why? How does a father explain to a son why he cannot pay for new baseball spikes, or to a daughter why she cannot continue with dance class or gymnastics? A person’s steady employment provides them with a sense of pride, of self-worth. When that employment is ripped away, without so much as an explanation, there is an immediate emotional blow to the employee. There is also an immediate and steadily growing impact on the employee’s family, especially those that depend on the income from the employment.

We must also consider the impact of suspended medical coverage. These employees and their families no longer had access to affordable medical coverage. Necessary prescription drugs, once covered, were now out of reach. All of these things produce an unimaginable level of psychological stress. This pressure is exacerbated by

lack of any knowledge as to why you have been subjected to it or the opportunity to defend yourself against it.

These officers dealt with the impact of their suspension with desperation. Family heirlooms, jewelry, shotguns and rifles passed down from grandfather to father to son were sold in order to pay the bills. One officer was forced to sell a hunting camp that he had owned for decades. These things occurred before the DOC provided the officers with an explanation of why they were suspended and before providing a single one of them with an opportunity to refute the allegations against him.

This type of activity does not happen in other state agencies. If a member of the Pennsylvania State Police is under investigation but there is not enough evidence to support a charge of misconduct, the Trooper is placed onto restricted duty. He continues to work, collecting a paycheck and benefits. Other agencies protect the property rights of their employees. This bill of rights simply seeks to do the same, and to force the DOC to provide our members with the rights that the U.S. Constitution requires.

Thank you.