

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

Middlesex, ss.

Kathleen Lydon,
Petitioner,

Docket No.: CR-25-0457

v.

State Board of Retirement,
Respondent.

Appearances:

For Petitioner: Kathleen Lydon (pro se)

For Respondent: Yande Lombe, Esq.

Administrative Magistrate:

Karen T. Guthrie

SUMMARY OF DECISION

Petitioner, as Deputy Chief of Investigations with the Department of Correction, did not prove that her regular and major duties involved the care, custody, instruction, or other supervision of prisoners. Therefore, she is not entitled to Group 2 classification under G.L. c. 32, § 3(2)(g).

DECISION

Petitioner, Kathleen Lydon, timely appealed the decision of the State Board of Retirement (“Board”) that denied Group 2 classification for her position as Deputy Chief of Investigations at the Office of Investigative Services (“OIS”) of the Department of Correction. I conducted an evidentiary hearing on June 10, 2026 via Webex at the Division of Administrative Law Appeals in Malden, MA. I admitted into evidence nine exhibits referenced in the Joint Pre-Hearing Memorandum. Ms. Lydon testified at the evidentiary hearing. Ms. Lydon called

Christine Dodd, a former Police Prosecutor with OIS, who also testified at the hearing.¹ The recording of the hearing proved to be inaudible. The parties agreed to submit a Joint Stipulation of Facts and Summary of Witness Testimony. The parties submitted closing memoranda, and on July 30, 2026, the record closed.

Findings of Fact

Based on the evidence presented by the parties, I make the following findings of fact:

1. Petitioner, Kathleen Lydon, entered state service in 1993 and became a member of the Massachusetts State Employees' Retirement System in 1994. (Agreed fact).
2. Ms. Lydon was employed with the Department of Youth Services from 1994 to 1997, and then she was employed with the Trial Court from 1997-2014. (Agreed fact).
3. Ms. Lydon was employed by the Department of Correction beginning in January 2017 and retired in June 2025 from the position of Deputy Chief of Investigations at OIS. (Agreed fact).
4. During approximately the last one and one-half years of her employment as Deputy Chief of Investigations, Ms. Lydon also covered the vacant Police Prosecutor position within OIS. (Agreed fact).
5. During that period, she served as a sworn Special State Police Officer. (Agreed fact).

¹ Ms. Lydon argues that because her duties were substantially the same as those of Ms. Dodd, a Correctional Program Officer who served as Police Prosecutor at OIS during a portion of the relevant time (and who was classified in Group 4), Ms. Lydon's position at a minimum qualifies for Group 2. This argument is unavailing. Criteria for each group classification are different and prescribed by statute. See G.L. c. 32 § 3(2)(g). To the extent that Ms. Lydon seeks an equitable remedy, this argument also is without merit, given that equitable concerns may not override a statutory rule. See *O'Malley v. Contrib. Ret. App. Bd.*, 104 Mass. App. Ct. 778, 782 (2004).

6. Her regular scheduled hours of work were 8:00 a.m. to 4:00 p.m., Monday to Friday.
She was also on call. (Agreed fact).
7. Ms. Lydon worked out of the Department of Correction headquarters in Milford, MA.
There is no prison at the headquarters. (Agreed fact).
8. She also worked at the department's satellite offices as needed, in Shirley, MA and Norfolk, MA. (Agreed fact).
9. She reported to the Chief of OIS. (Agreed fact).
10. The units under OIS include the criminal prosecution unit, the fugitive apprehension unit, the central intelligence unit, the electronic monitoring unit, the federal task force, and the state police task force. (Agreed fact).
11. OIS was comprised of thirty-five to forty staff which included four Police Prosecutors, Correction Officers, Correction Program Officers, and two state police troopers.
(Agreed fact).
12. Ms. Lydon worked daily with the staff of OIS, primarily with the Police Prosecutors.
(Agreed fact).
13. She was a liaison between law enforcement and the court. She worked with District Attorneys regarding criminal matters arising from Department of Correction investigations. (Agreed fact).
14. She spent a lot of time in court, filing criminal complaints and participating in criminal prosecution activities associated with her police prosecutor responsibilities.
(Agreed fact).

15. Ms. Lydon appeared in court proceedings relating to criminal complaints and prosecutions arising from Department of Correction investigations, and saw matters through adjudication. (Agreed fact).
16. Her police prosecutor duties consisted of investigations, inmate interviews, warrant applications, targeted institutional searches, and coverage of the vacant Police Prosecutor position. (Agreed fact).
17. She also provided statements of facts in Clerk Magistrate hearings for determination of probable cause for criminal charges that were being sought. Most of these hearings involved charges being brought against inmates. Others involved charges sought against department employees related to excessive use of force. (Agreed fact).
18. As part of the investigations conducted by OIS, she interviewed incarcerated individuals or employees who were alleged to be involved in crimes. (Agreed fact).
19. She did not know what portion of her time she spent interviewing inmates. (Agreed fact).
20. Ms. Lydon regularly participated in criminal investigations involving conduct occurring within Department of Correction facilities. (Agreed fact).
21. She also obtained warrants in connection with investigations conducted by OIS. (Agreed fact).
22. Ms. Lydon participated in targeted institutional searches; however, she did not perform this duty a lot during her last year of work. (Agreed fact).

23. In addition to her primary role as Police Prosecutor, she served as the Criminal Justice Information Systems (“CJIS”) representative for the department, and she oversaw the Electronic Monitoring Unit. (Agreed fact).
24. As part of her CJIS representative role, she oversaw training for staff, making sure they received training related to accessing background information. She also reviewed applications and made related determinations to either approve or deny access for staff. (Agreed fact).
25. Her CJIS duties constituted approximately ten percent of her work time. (Agreed fact).
26. As part of her responsibilities with the Electronic Monitoring Unit, Ms. Lydon conducted home visits and investigations to evaluate candidates and determine if home placement was appropriate. (Agreed fact).
27. Ms. Lydon did not perform home visits or related investigations often in the last year of her work. She performed these duties approximately once a week. (Agreed fact).
28. She interviewed individuals at Bridgewater State Hospital who were crime victims; however, she did not do this frequently during her last year of work. (Agreed fact).
29. The Management Questionnaire for the position of Deputy Chief of Investigations (Ex. 4) accurately outlined her job duties. (Agreed fact).
30. Approximately seventy-five percent of her position constituted police prosecutor duties. (Agreed fact).
31. In March 2025 Ms. Lydon filed a group classification application and asked that the Board classify her position of Deputy Chief of Investigations with the Department of Correction in Group 2. (Ex. 3).

32. On June 30, 2025, Ms. Lydon retired from the position of Deputy Chief of Investigations at OIS. (Agreed fact).

33. On July 31, 2025, the Board voted to deny the request and so notified Ms. Lydon by letter dated August 1, 2025. (Ex. 1).

34. Ms. Lydon filed an appeal of the Board’s decision on August 5, 2025. (Ex. 2).

Analysis

For retirement purposes, each public employee is assigned to one of four groups. G.L. c. 32, § 3(2)(g). Group 1 consists of “general employees including clerical, administrative and technical workers, laborers, mechanics and all others not otherwise classified.” *Id.* Group 2 includes, among other employees, those “whose regular and major duties require them to have the care, custody, instruction or other supervision of prisoners” *Id.*

The position of Deputy Chief of OIS is not among the specific job titles included in Group 2 under G. L. c. 32, § 3(2)(g). Therefore, to qualify for Group 2 classification, Ms. Lydon must prove by a preponderance of the evidence that her “regular and major duties” involved the “care, custody, instruction or other supervision of prisoners.” *Id.*; *Peck v. State Bd. of Ret.*, No. CR-15-282, at *3-4 (Contrib. Ret. App. Bd. Feb. 8, 2021). Ms. Lydon may satisfy this burden by showing that she spent more than half of her time engaged in providing such services. *Forbes v. State Bd. of Ret.*, No. CR-13-146 (Contrib. Ret. App. Bd. Jan. 8, 2020).

To determine an employee’s “regular and major duties,” the responsibilities listed in the written job description may be considered. *Id.* Actual duties performed by the employee are

also important factors in the group classification. *See Desautel v. State Bd. of Ret.*, CR-18-0080 (Contrib. Ret. App. Bd. August 2, 2023).

According to the Human Resources Division Management Questionnaire, most of the job duties of Deputy Chief of OIS involved assisting the Chief of OIS and other investigators in reviewing intel to determine probable cause for criminal prosecution and referrals to the DA's office. This included assisting with investigations and interviewing inmates, obtaining warrants, participating in on-site institution searches, and covering the vacant Police Prosecutor position.

Ms. Lydon stated that she worked daily with the staff of OIS, primarily with the police prosecutors. She was a liaison between law enforcement and the court. She worked with Assistant DAs regarding criminal matters arising from Department of Correction investigations. She testified that she spent a lot of time in court, filing criminal complaints and participating in criminal prosecution activities associated with her police prosecutor activities. These and other police prosecutor duties, including investigations, interviews, and warrant applications, constituted seventy-five percent of her role.

When not in court, Ms. Lydon worked out of the Department of Correction headquarters in Milford, MA, where there were no prisoners. She also would go as needed to facilities in Shirley, MA and Norfolk, MA, where inmates were present, and she would conduct inmate interviews. Ms. Lydon did not provide any evidence regarding how frequently she conducted these interviews or the amount of time she spent on them.

Regarding her other duties, there was no evidence as to whether there was contact or work with prisoners, or the nature and time involved.

Ms. Lydon argues that the police prosecutor duties comprised seventy-five percent of her role as Deputy Chief of OIS, and these duties all constitute “care, custody, instruction or other supervision of prisoners”; therefore, she qualifies for Group 2 classification. This is unsupported under the law.

Interaction with inmates during the interviews she conducted arguably might constitute “care, custody, instruction or other supervision of prisoners,” depending upon the circumstances. Direct and substantive interactions with prisoners may qualify. *See McKinney v. State Bd. of Ret.*, No. CR-17-230 & CR-17-868 (Div. Admin. Law App. Sept. 29, 2023; Contrib. Ret. App. Bd. appeal pending). However, “[i]nteraction and contact with prisoners does not, by itself, constitute caring for, having custody of, instructing or supervising them.” *See Sanchez v. State Bd. of Ret.*, No. CR-23-0620 (Div. Admin. Law App. July 10, 2026).

Regardless, Ms. Lydon cannot prevail on her claim for Group 2 classification based upon the inmate interviews, as she has not proved that she conducted this work for over fifty percent of the time. *See McLaughlin v. State Bd. of Ret.*, CR-19-0515 (Div. Admin. Law App. Dec. 23, 2022); *DePalo v. State Bd. of Ret.*, CR-22-0370 (Div. Admin. Law App. April 10, 2026). Nor can she prevail based upon the other police prosecutor duties because, as noted, there was no evidence as to whether there was contact or work with prisoners, or as to the nature and time involved.

Because Ms. Lydon has not carried her burden of proving that the majority of her work consisted of “care, custody, instruction or other supervision of prisoners,” she is not entitled to Group 2 classification.

Conclusion and Order

For the foregoing reasons, the decision of the Board is hereby AFFIRMED.

Dated: August 14, 2026

/s/ Karen T. Guthrie

Karen T. Guthrie
Administrative Magistrate
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