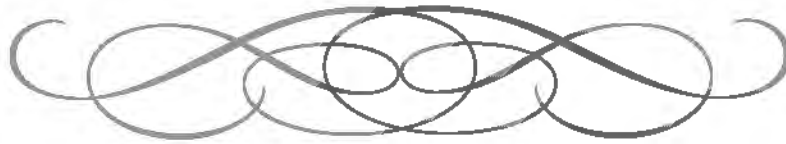


# Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities



FINAL REPORT



Annapolis, Maryland  
December 2013

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# **Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities**

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**Department of Legislative Services  
Office of Policy Analysis  
Annapolis, Maryland**

**December 2013**

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Special Joint Commission on Public Safety and Security in  
State and Local Correctional Facilities**

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## **Chapter 1. Background and Charge of the Commission**

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On April 23, 2013, a federal grand jury returned an indictment charging 25 individuals, including inmates and 13 correctional officers employed by the Maryland Department of Public Safety and Correctional Services (DPSCS), with conspiring to run operations of the Black Guerilla Family (BGF) gang inside the Baltimore City Detention Center (BCDC) and related facilities. Charges included racketeering, drug distribution, money laundering, victim and witness retaliation, bribery, and extortion. According to the indictment, correctional officers helped leaders of the BGF smuggle cell phones, drugs, and other contraband into State correctional facilities.

On June 6, 2013, the Legislative Policy Committee held a hearing on the matter. Witnesses included corrections and law enforcement officials. Following that hearing, Senate President Thomas V. Mike Miller, Jr., and House Speaker Michael E. Busch announced the creation of a Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities (Commission).

The Presiding Officers asked the Commission to spend the 2013 interim conducting an in-depth study and critical review of the laws, regulations, policies, and practices affecting safety and security at all State prisons and local jails. Composed of seven senators and seven delegates, the Commission will make budgetary and legislative recommendations to the Legislative Policy Committee prior to the 2014 legislative session. The charge to the Commission is attached (see **Appendix 1**).

### **Public Meetings**

The Commission held six public meetings during the interim. During these meetings, the Commission heard testimony from representatives of the Department of Legislative Services (DLS), DPSCS, the Maryland Judiciary, the American Federation of State, County, and Municipal Employees (AFSCME), the Baltimore City Criminal Justice Coordinating Council, the Office of the Public Defender, private attorneys, and the Baltimore City and Baltimore County State's Attorney's Offices. In addition to these meetings, the Commission toured BCDC on July 25, 2013.

### **Summary of Commission Meetings**

#### **June 27, 2013**

David B. Juppe, Senior Operating Budget Manager at DLS, presented an overview of public safety issues. The presentation included a discussion of criminal justice system procedures; sentencing guidelines and the 1986 sentencing change; the 1991 State acquisition of BCDC; the BCDC audit; and correctional officer hiring, compensation, and rights. The DLS



presentation provided statistics relating to arrest trends (over time and by jurisdiction), sentencing trends, local jail populations and the percentage of which are pretrial detainees (including statistics specifically relating to BCDC), correctional officer salary trends (over time and by jurisdiction), and correctional officer fill rates and availability for work. The presentation also covered the State Correctional Officers' Bill of Rights (COBR), a comparison of its provisions with the Law Enforcement Officers' Bill of Rights and the various local correctional officers' bills of rights, as well as the disposition of disciplinary action against State correctional officers.

Gary Maynard, Secretary of DPSCS, presented an overview of DPSCS operations, including the department's budget, organizational structure, hiring practices and training, detention and correctional facilities, community supervision, major initiatives, and the operational details of COBR. The Secretary was accompanied by most of the senior staff of DPSCS.

### **July 25, 2013**

On July 25, the Commission visited BCDC. The site visit began with a briefing by Secretary Maynard on the history of the facility and the security improvements made at the detention center since the April 2013 indictments. Commission members were informed that the core complex of the facility was completed in 1859, prior to the Civil War. The facility primarily consists of four buildings: the Women's Detention Center (WDC), the Men's Detention Center (MDC), the Jail Industries Building, and the Wyatt Building. BCDC has a standing population of between 2,400 and 3,000 detainees and employs over 700 people, the majority of which are correctional officers.

BCDC is designed to house short-term sentenced inmates, with sentences of less than 18 months, and those detainees awaiting trial. This type of population results in constant turnover and significant movement, due to new arrests and shorter lengths of stay. Daily operational functions at the detention center include receiving new intakes from Baltimore Central Booking and Intake Center (BCBIC), transporting individuals to court, and providing medical treatment and mental health care. Furthermore, the department provides a variety of additional services to offenders in need, including education, substance abuse treatment, family reunification, recreation, and transition services.

Following the briefing, the Commission toured the detention center. The tour began at the non-custody staff entrance (*i.e.* attorneys, medical personnel, contractors, classification, legislators, administrators, and the DPSCS Secretary). Upon entering the facility, all members were required to show identification and proceed through metal detector screening. Correctional staff also demonstrated how the screening equipment worked and answered questions relating to the entrance procedures. From the facility entrance, the tour continued to the reception area for all offender movement in and out of the facility, and Commission members were briefed on the intake process for detainees coming from BCBIC. DPSCS also showed members the new

offender dining room, which will eliminate the need for detainees to receive meals in their cells, as has been the procedure for the past two decades. The tour concluded with a walk-through of the infirmary and observation of the dormitory style housing in the Men's Detention Center for minimum security detainees.

Upon the conclusion of the tour, the department hosted a question and answer session with Commission members and departmental staff.

### **September 4, 2013**

The Honorable Ben Clyburn, Chief Judge of the Maryland District Court; the Honorable Barry Williams, the Judge-in-Charge of Administration for the Criminal Division of the Circuit Court for Baltimore City; and Kimberly Barranco, Executive Director of the Baltimore City Criminal Justice Coordinating Council, presented on behalf of the Judiciary. David Weissert, Coordinator of Commissioner Activities and Robert Prender, Deputy Coordinator, represented the Maryland District Court Commissioners. Ricardo Flores, Natalie Finegar, and Elizabeth Julian presented on behalf of the Office of the Public Defender. Elizabeth Embry (Baltimore City) and Scott Shellenberger (Baltimore County) presented on behalf of State's Attorneys. Each group focused on the roles of their respective organizations while also offering suggestions to address the mandate of the Commission to focus on the BCDC facility, including methods to reduce the length of stay for pretrial detainees, reduce opportunities for the influx of contraband into facilities, and provide deterrents for contraband smuggling.

### **September 18, 2013**

Secretary Maynard and David Bezanson, Assistant Secretary of Capital Programs, presented DPSCS' 2013 Facility Master Plan for capital improvements to upgrade and eventually replace BCDC and outlined the sequence of renovation and construction projects for the Correctional Complex in Baltimore City. The Secretary also outlined security technology enhancements that have been made to BCDC as well as enhancements that are currently being explored for the facility. Howard Ray, Jr., Executive Director of the Maryland Commission on Correctional Standards (MCCS), also provided the Commission with an overview of MCCS, its role, and MCCS' process for auditing a correctional facility. Secretary Maynard and Mr. Ray also discussed current and future accreditations of State correctional facilities by the American Correctional Association (ACA).

### **October 2, 2013**

The Commission heard presentations relating to personnel issues, including hiring policies, training and professional development, salary and benefits, recruitment and retention, and COBR. The discussions on COBR centered around disciplinary action, including procedures for investigating misconduct, filing charges, and hearings. Secretary Maynard; Patricia Donovan, Executive Director of Human Resources; Lisa Arnquist, Deputy Counsel; and

Charles Rapp, Executive Director of the Police and Correctional Training Commissions, presented on behalf of DPSCS. Todd Schuler, Darrell Carrington, and Archer Blackwell presented on behalf of the AFSCME Council 67 and Sue Esty, Deborah Williams, and Chris Duffy presented on behalf of the AFSCME Council 3. Jonathan Scruggs and Michael Davies also presented in their capacity as attorneys who have worked extensively on cases involving COBR.

### **October 30, 2013**

At the Commission's final investigatory meeting, representatives were available from the Judiciary (Kelley O'Connor, Director of Government Relations) and DPSCS (Kevin Loeb, Director of the Office of Legislative Affairs) to answer members' questions relating to trial postponements, correctional facility security technology improvements, contraband, personnel issues, and MCCS audits. The discussion centered on summaries of prior meetings and possible recommendations to be included in the commission's final report. Commission staff was charged with drafting recommendations for consideration at the final meeting of the commission on December 11, 2013. Specific topics included case docketing and management by the Judiciary, correctional facility security, body scanners, DPSCS personnel needs, polygraph use in hiring, correctional officer arrest authority, COBR suspension provisions, audits by MCCS and ACA, and cell phones and call blocking technology.

### **December 11, 2013**

During the final meeting of the Commission, the Commission reviewed and approved its final recommendations to the Legislative Policy Committee.

## Chapter 2. Commission Recommendations

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After hearing from multiple State and local representatives and labor groups, the Commission focused its attention on developing recommendations for the upcoming legislative session. The following discussion is a summary of Commission's recommended actions.

### Maryland's Judicial Partners

#### Case Management

In fiscal 2012, nearly 2.1 million District Court and circuit court cases were filed throughout the State of Maryland. Of this amount, approximately 375,669 cases, or 18%, were filed in Baltimore City. While noting that Baltimore City faces challenges unlike any other jurisdiction in Maryland due, in part, to the sheer volume of cases in Baltimore, the ability of the Baltimore City court system to hear cases on a timely basis and the resulting impact on the inmate population at Baltimore City Detention Center (BCDC) remains a concern.

In its testimony before the Commission, the Judiciary reported that circuit court cases are generally arraigned within 30 to 45 days after a defendant is charged. At arraignment, the judge, in coordination with counsel, determines when the case will be scheduled onto the docket of the Reception Court. Reception Court cases are set for either 60, 90, or 120 days following arraignment. Cases assigned to the Reception Court are resolved in many ways, which may include a *nolle prosequi* or guilty plea. Cases that are not resolved at this juncture are assigned to one of the nine available trial courts.

According to the Judiciary, approximately 61.3% of the scheduled felony trial dates were postponed in fiscal 2012. Upon further inquiry, the Commission learned that approximately 49.2% of the postponements were due to the unavailability of counsel, witnesses, and courtrooms.

**Recommendation 1:** The Commission recommends that the Maryland Judiciary undertake a comprehensive review of the case management system in Baltimore City. Specifically, the Judiciary should examine case management systems deployed by other jurisdictions (*e.g.*, Montgomery County) that have been proven effective in reducing the number of felony trial case postponements.

**Recommendation 2:** The Commission also recommends that the Maryland Judicial Conference study this issue and provide recommendations to local jurisdictions, such as Baltimore City, on how to effectively manage and resolve cases in a timely manner.



## **Contraband/Criminal Law**

The State's Attorneys Association, the Judiciary, and the Department of Public Safety and Correctional Services (DPSCS) have recommended that the Criminal Law Article be amended to enhance efforts to deter, prosecute, and punish the smuggling of telecommunication devices into correctional facilities.

The smuggling of cell phones has become an increasingly difficult problem for correctional facilities in Maryland. As technology advances, cell phones become smaller and easier to conceal. The threat that the devices pose to public safety is significant. Internally, cell phones allow inmates to plan prison assaults, escapes, and riots. Cell phones also allow inmates to reach outside of facility walls to harass and intimidate witnesses and victims as well as coordinate other criminal activity such as drug deals, gang activity, and homicides.

Currently, the possession, receipt, or delivery of a telecommunication device in a place of confinement is a misdemeanor punishable by imprisonment for up to three years and/or a fine of up to \$1,000. Increasing these penalties will aid in enforcement efforts by serving as a deterrent to the possession of these devices as well as punishing violators with more serious consequences.

**Recommendation 3:** The Commission recommends that State law be amended to increase the maximum penalties for the possession, receipt, or delivery of a telecommunication device in a place of confinement to five years imprisonment and/or a fine of \$3,000. The Commission further recommends that attempts to deliver a telecommunication device also be prohibited, and that a sentence imposed on an inmate convicted under the prohibition be required to be served consecutively to the sentence the inmate is already serving (see Appendix 2).

## **Department of Public Safety and Correctional Services**

### **DPSCS Facilities**

#### **Detention/Facilities Master Plan**

**Population:** Like all local detention centers in Maryland, BCDC houses both pretrial detainees and short-term sentenced offenders. BCDC, however, is a unique facility in Maryland since it is the only local detention center operated by the State. This provides DPSCS the option of relocating offenders to other State correctional facilities, if necessary, to meet population demands. As such, the short-term sentenced offender population is a relatively small portion of the total offender population located at the Baltimore detention facilities. BCDC actually has a higher percentage of pretrial detainees than any other jurisdiction in the State, with approximately 86% of its population in pretrial status. Pretrial detainees accounted for 57% of the local detention population for the other 23 jurisdictions in the State.



Since fiscal 2008, BCDC has seen a decline in its total population, particularly among pre-trial detainees. During the same time period, the overall length of stay for offenders housed in Baltimore City detention facilities has increased from 37.3 days in fiscal 2008 to 42.0 days in fiscal 2012. In addition, the percent of pretrial detainees held over 90 days increased significantly in recent years. Prior to fiscal 2011, approximately 26% of the pretrial population was held beyond 90 days, on par with the population of the other 23 local jurisdictions. In fiscal 2011 and 2012, nearly 45% of the pretrial population was detained for more than 90 days. A point-in-time analysis of the population from May 30, 2013, revealed that 37% of the population had been held at the detention center for longer than 6 months. To date, the department has been unable to identify the cause of the increase.

The operation of a facility that manages offenders in pre-trial status is inherently different from a correctional facility designed to house incarcerated individuals. Pretrial individuals have different needs regarding programming, health services, addictions treatment, *etc.* In addition, there is a more recent and established connection to the world outside of the correctional facility. Meeting the needs of a pretrial population requires different resources as it pertains to the type of facility and staff. Offenders who are held for lengthy periods of time in a facility that is not intended for that purpose, and with a staff that may not be adequately trained to supervise long-term populations, can create management problems.

Although it is preferable that the criminal justice system function in a manner that is efficient enough to reduce the population of pretrial detainees held beyond 90 days, it is understandable that that may not always be achievable. To avoid the management issues that can arise from long-term stays for detainees at BCDC, it would be advisable for DPSCS to consider housing select individuals at facilities that may be better suited for handling that population.

**Recommendation 4:** The Commission recommends that DPSCS develop a risk assessment tool to be administered to all pretrial and sentenced individuals held at the Baltimore City Detention Center. Higher risk offenders, regardless of whether the individual is pre-trial or sentenced, should be considered for segregation within the correctional complex or relocation to another long-term correctional facility in order to avoid the issues that arise from housing detainees for long periods of time in a detention facility.

**Facilities:** The Correctional Complex in Baltimore City includes approximately 27 acres and houses over 3,000 inmates and detainees within the complex. The land-locked site is bounded by the Jones Falls Expressway to the west and residential communities to the north, south, and east, limiting construction of new facilities to the existing footprint. BCDC includes the oldest buildings still in use within the complex. The original Baltimore City jail was constructed in 1801 on the site of the current BCDC. A replacement facility was completed in 1859; between 1859 and 1999, the facility underwent 11 renovations. The current Women's Detention Center (WDC) to house female detainees was opened in 1967. Since 1991, \$65 million has been authorized for BCDC capital improvements.

Despite the improvements and expansion completed over the years, the existing structures within the Correctional Complex, specifically at BCDC, have a variety of significant shortfalls. In addition to inadequate housing and the problems that result from persistent overcrowding, the facilities lack program space, are inefficiently designed, and pose life safety and accessibility risks. Specifically, the American Federation of State County and Municipal Employees (AFSCME) notes failures in the plumbing, broken elevators, bug and rodent infestations, problems with air conditioning, and mold as areas of concern. The design of the facilities creates poor lines of sight, which increases the potential for assaults. The existing barred cells and keyed doors are particular impediments to maintaining officer safety and reducing the flow of contraband throughout the facility.

The best resolution to these issues is the demolition and replacement of the old, inadequate structures within the Correctional Complex. DPSCS has included a multi-year redevelopment of the entire Correctional Complex in its *2013 Facilities Master Plan*, submitted to the General Assembly in June 2013.

The decade-long redevelopment plan proposes new facilities for all pretrial populations, the creation of a reentry campus to serve inmates from the Central Region, and improved program space for short-sentenced offenders. The estimated cost of the entire redevelopment is approximately \$533 million over the next 10 years. Specifically, the plan includes:

- A 60-bed, \$30 million new Youth Detention Center to accommodate pretrial youth who are detained pending charges in the adult court. The General Assembly added \$2.6 million in general obligation bond funds to the fiscal 2014 capital budget to begin designing the renovation of an existing facility within the complex to accommodate this population, with construction anticipated to begin in fiscal 2015;
- A 512-bed, \$96 million replacement for WDC, with construction estimated to begin in fiscal 2018. The proposed site for the new WDC is currently occupied by the former West Wing of the Metropolitan Transition Center;
- A 2,304-bed, \$296 million replacement of Men's Detention Center (MDC). The new MDC will consist of three 768-bed towers to be constructed in three phases. Construction for each phase is projected to begin in fiscal 2019, 2021, and 2023. The new MDC will be sited parallel to the Baltimore Central Booking and Intake Center. The site is currently occupied by the existing BCDC, including the existing WDC. As such, the construction of the new MDC must be completed in phases, and in coordination with the construction of the new youth detention center and WDC, in order to accommodate the BCDC offender population within Baltimore City while the project is being completed.

The male population at the Baltimore detention facilities reflects more than 83% of the projected pretrial and detention bed space needs for fiscal 2015. The existing men's detention



facilities are the some of the oldest structures in the complex, yet construction of the first phase of a new MDC is not scheduled to begin for at least four years, assuming funding is available and provided according to the department's proposed capital plan. In addition, with the project being completed in three phases, the entire MDC will require more than a decade to construct. The final phase of the new facility will likely not be occupied until at least fiscal 2025. With the male population representing the majority of the population at the Correctional Complex, and thus requiring the highest concentration of employees, improving the inadequacies of the existing MDC should take precedence.

**Recommendation 5:** The Commission urges the Administration to make replacement of the Baltimore City Detention Center a priority in its five-year Capital Improvement Program. Capital funding should be provided in accordance with the department's response to a 2012 legislative request for an updated facilities master plan that would include improving correctional facilities in Baltimore City.

**Recommendation 6:** Understanding that capital construction projects require significant time to complete, the Commission recommends that funding be provided to enhance safety and security at the existing Baltimore correctional facilities pending the construction of new detention centers for the male, female, and youth populations. This should specifically include, but not be limited to, the replacement of the existing manually operated corridor doors.

### **Security at DPSCS Facilities**

Because security issues at Maryland correctional facilities, especially BCDC, were key features of the mission of the Commission, several security ideas and issues were raised in testimony heard by the Commission, especially with respect to the detection of contraband. For example, representatives from the AFSCME testified that there is a "lack of uniformity, or at least communication about important security procedures." The AFSCME further questioned whether there were adequate security procedures in place for private employees such as medical and supply personnel.

DPSCS asserts that the department already has a uniform security policy for anyone entering a State correctional facility under Directive DPDS.110.0033 – *Entry and Exit Procedures*. Additionally, all visitors, correctional officers, legal counsel, and other persons entering a facility must clear a metal detector and receive an "intensive search" (*i.e.*, via a thorough physical pat-down). DPSCS has 2,840 cameras throughout all correctional facilities, 99% of which are considered currently fully functional. However, it should be noted that cameras require continuous maintenance and upgrading; therefore, the percentage of cameras that are fully online at any given time may fluctuate slightly. It is DPSCS' intent that the percentage of working cameras be kept as close to 100% as possible at all times.



Although some of the security issues raised will eventually be addressed by future facility/capital improvements, the Commission makes the following security-related recommendations:

**Recommendation 7:** The Commission recommends that DPSCS utilize a uniform security screening policy for anyone entering a State correctional facility, including contractors and other non-custody employees. The department should also have functional cameras at all facilities on a 24-hour basis.

**Recommendation 8:** The Commission also recommends that the department institute ongoing training to ensure that security policies are being executed uniformly at each facility. To further ensure the effective implementation of the security policies, DPSCS should enlist a third party to conduct security audits of the practices, procedures, and operations at each of the State's correctional facilities every three years. Copies of the audit findings should be submitted to the General Assembly.

**Recommendation 9:** The Commission further recommends that the department undergo an evaluation of deploying full body scanners at each correctional facility. The department should report the results of its evaluation to the General Assembly. In the interim, the Commission supports the expansion of DPSCS' K-9 Unit to assist with the detection of contraband.

### **Cellphone Blocking Technology**

In April 2013, the department deployed a Managed Access cell phone blocking system at the Metropolitan Transition Center (MTC). The Managed Access system only lets calls into the facility from authorized cell phone numbers. The system appears to be very effective, as evidenced by the sight of inmates continuously lined up at payphones.

Subsequently, the department issued an emergency procurement to install the system at BCDC during summer 2013. This system will be operational in December 2013.

The cost of Managed Access is approximately \$2 million annually at MTC, and \$3.9 million annually at BCDC.

The department has requested funding to expand Managed Access during fiscal 2015. The following facilities have been identified as priorities for the system installation: Baltimore Central Booking and Intake Center; Chesapeake Detention Facility; Maryland Reception, Diagnostic and Classification Center; Jessup Correctional Institution; and Patuxent Institution.

**Recommendation 10:** The Commission supports the department's request for funding to expand the Managed Access system.



## **DPSCS Personnel**

### **Staffing Plan**

In August 2010, DPSCS submitted a post-by-post security staffing analysis for each of its custodial agencies to the General Assembly in order to identify an accurate number of positions needed to safely and securely staff the State's correctional institutions. The analysis included a comprehensive study that incorporated each facility's mission, security level, physical design characteristics, programs, inmate population and standards. Members of the AFSCME and the National Institute of Corrections assisted in the review. The analysis identified:

- the minimal number of positions needed to safely staff the facilities and reduce the use of Special Assignment Posts (SAPs), which are costly and contribute significantly to overtime spending; and
- the ideal number of positions needed in order to address all operational requirements without the need to collapse posts or excessively use SAPs funded via overtime.

In the aggregate, DPSCS identified the need for an additional 377 regular positions statewide (364 non-supervisory and 13 supervisory) to provide the minimum standard of staffing. Of the 377 positions, 118 would be needed to staff the pre-trial/detention facilities in Baltimore City. To achieve the ideal staffing standard, the department would require an additional 833 regular positions statewide (766 non-supervisory and 67 supervisory), including 175 at the Baltimore City pre-trial/detention facilities.

The General Assembly took the first step toward addressing the significant staffing needs identified by the department by including language in the fiscal 2014 budget bill expressing the legislative intent that the Administration provide DPSCS with the 377 additional correctional officer positions needed to minimally staff the state correctional facilities. The language recommends 100 positions be added annually to the department's personnel complement, beginning in fiscal 2015.

Proper staffing in a correctional facility is vital to ensuring the safety and security of the institution, its staff, and the inmate population. Understaffing drives the demand for overtime, reduces employee morale, and increases opportunities for violence and the introduction of contraband.

**Recommendation 11: The Commission supports the actions taken by the General Assembly during the 2013 session and recommends that, to the extent possible, the Administration expedite the phase-in of new correctional officer positions beyond what was recommended in the fiscal 2014 budget bill. Language should be included in the fiscal 2015 budget bill to support the continued phase-in of positions. In addition, the Commission recommends that DPSCS submit a revised staffing assessment to the General Assembly every two years beginning in January 2014.**



### **Employee Training**

The provision of adequate training ensures a well-informed staff that is prepared for any and all situations that may arise while on duty. In its review of the department's training requirements, a common concern raised to the Commission was the lack of ongoing training provided to correctional staff. Currently, the department requires 18 hours of in-service training annually, although the nationally recognized standard from the American Correctional Association (ACA) requires 40 hours annually. The correctional training curriculum was altered in 2012 to include the topic of fraternization; however, the current level of training is still insufficient, particularly in light of the department's expressed intentions to achieve ACA accreditation at each of its facilities.

**Recommendation 12:** The Commission recommends that DPSCS increase the annual in-service training requirement for correctional staff to 40 hours annually. This increase should be implemented as quickly as is feasible and pursued independent of achieving ACA accreditation.

### **Polygraphs**

State law authorizes the department to require an individual to pass a polygraph examination before being appointed to serve as a correctional officer. DPSCS estimates that it would cost \$347,019 in fiscal 2014 and \$338,982 beginning in fiscal 2015 to hire four polygraph examiners and one supervisor to polygraph correctional officer applicants after satisfactory completion of a background check. DPSCS' estimate assumes that each polygraph examination will take three hours, and that 40% of the initial polygraph examinations will require follow up.

**Recommendation 13:** In order to improve the pool of correctional officer applicants and to avoid the hiring of correctional officer applicants with gang affiliations, the Commission recommends that as soon as practicable, the State begin to polygraph all new correctional officer applicants. The Commission further recommends that a deficiency appropriation be provided in the fiscal 2014 budget to establish a polygraph examination unit within the department.

### **Correctional Officer Arrest Powers**

According to the department, there are currently 69 DPSCS employees with arrest powers throughout the State of Maryland. These employees are assigned to the department's K-9 Unit (13), Internal Investigative Unit (24), and Warrant Apprehension Unit (32). Correctional officers assigned to the K-9 and Internal Investigative units may be called upon to respond to each of the department's 22 facilities. By contrast, agents within the Warrant Apprehension Unit are generally located within the Baltimore City region. Recently, DPSCS reallocated K-9 Unit officers to the Baltimore City Correctional Complex to support increased searches within the central region. DPSCS is also in the process of hiring 35 additional



correctional officers with arrest powers, thereby increasing its total complement of officers with arrest powers to 104.

In addition to its internal staff of officers with arrest powers, the department maintains a working relationship with the Department of State Police and the Baltimore City Police Department. Both agencies have assisted the department previously with arresting non-incarcerated individuals.

According to DPSCS, in order to have at least one correctional officer with arrest powers on duty at each of its 22 facilities on a 24-hour basis, the department would need to employ 125 additional correctional officers at a cost of approximately \$10.1 million.

**Recommendation 14:** The Commission recommends that the department develop a plan to employ correctional officers with arrest powers at each of its 22 facilities on a 24-hour basis. The plan should specify, to what extent, the department can achieve this objective with existing resources. As part of its evaluation, the department should consider (1) utilizing a phased-in approach, beginning with BCDC; (2) assigning a correctional officer with arrest powers to a group of correctional facilities that are located within close proximity of each other; and (3) executing formal agreements with local law enforcement agencies to assist DPSCS with arresting non-incarcerated individuals. The department should submit a report outlining the proposed plan to the General Assembly.

#### **Emergency Suspension under the State Correctional Officers' Bill of Rights**

Chapter 194 of 2010 enacted the Correctional Officers' Bill of Rights (COBR), which provides for the employment, investigation, and discipline of correctional officers who are employees of the Division of Correction working in a State correctional facility. The COBR extends uniform investigatory and disciplinary protections to officers whose duties relate to the investigation, care, custody, control, or supervision of inmates.

Under Chapter 194, the appointing authority may authorize the emergency suspension of an officer (with pay) if the suspension is in the best interest of the public, inmates, and the correctional facility. However, if an officer is charged with a felony, the appointing authority may impose an emergency suspension of correctional powers without pay. Under COBR, when an emergency suspension of a correctional officer without pay is imposed, the correctional officer is entitled to a prompt hearing, held no more than 90 days after the suspension.

Under current law, except under specified circumstances (*i.e.*, the possession or delivery of a weapon and the possession or delivery of contraband with the intent to effectuate an escape), it is generally a misdemeanor to possess or deliver contraband to a person detained in a correctional facility. In light of the April 2013 federal grand jury indictment which alleged that correctional officers helped leaders of the Black Guerilla Family smuggle contraband into State correctional facilities, the Commission believes that DPSCS should have the ability to authorize



the suspension (without pay) of a correctional officer charged with bringing contraband into a correctional facility (regardless of whether the offense is a misdemeanor).

**Recommendation 15:** The Commission recommends that State law be amended to authorize the appointing authority of a correctional facility to impose an emergency suspension without pay when a correctional officer is charged with bringing contraband into a correctional facility, irrespective of whether it's a misdemeanor violation (see Appendix 3).

**Recommendation 16:** Similar to the recommendation for correctional officers, the Commission recommends that non-officer personnel charged with bringing contraband into a correctional facility be suspended (without pay) pending the resolution of the disciplinary matter.

## **Maryland Commission on Correctional Standards**

Maryland Commission on Correctional Standards (MCCS) was created in 1980 and currently functions to develop standards and enforce regulations for the operation of Maryland's prisons, detention centers, and community correctional centers and exercise regulatory and licensing authority over private home detention monitoring agencies. The 12-member commission includes the Attorney General, the Secretary of General Services, and the Secretary of Budget and Management.

With the advice of MCCS, the Secretary of DPSCS sets, by regulation, minimum mandatory standards applicable to security and inmate control, inmate safety, inmate food services, inmate housing and sanitation, inmate rights, classification, hearings, victim notification, and administrative recordkeeping. These minimum standards apply to all State and local correctional facilities. In addition, the Secretary of DPSCS, with the advice of MCCS, adopts regulations that establish approved standards applicable to personnel, training, administration, management, planning and coordination, research and evaluation, physical plant, special management inmates, rules and discipline, mail and visiting, reception and orientation, property control, work programs, educational and vocational training, library services, religious services, recreational activities, counseling, release preparation, and volunteers. These standards apply to all State facilities and may be adopted, in whole or in part, by a local correctional facility. All mandatory minimum standards and approved standards adopted must be consistent with State and federal law.

The ACA is a private, nonprofit organization that administers the only national accreditation program for all components of correctional operations. ACA's purpose is to address the management of correctional agencies through the use of a voluntary accreditation program and the ongoing development and revision of relevant standards. A visiting committee composed of two or more auditors conducts the ACA audit. An ACA audit of an adult local detention facility applies 385 standards in its review, 60 mandatory standards and

325 non-mandatory standards. To become accredited by ACA, the facility must achieve 100% of the mandatory standards and at least 90% of the non-mandatory standards. Following the audit, an accreditation hearing is conducted by a panel of three to five commissioners. After completing its review, the panel votes to award or deny accreditation. ACA accreditation is awarded for a period of three years.

MCCS reported that the Secretary of DPSCS has tasked the department with reviewing commission standards to make recommendations as to how MCCS' standards can better align with ACA standards to prevent duplication of efforts.

**Recommendation 17:** The Commission recommends that MCCS continue to work toward ensuring that all correctional facilities are in compliance with the mandatory standards established by MCCS. Additionally, the State should work toward aligning standards at all correctional facilities.

**Recommendation 18:** The Commission further recommends that the Secretary of DPSCS submit a report to the Governor and the General Assembly by December 1, 2014, outlining (1) the results of the department's review of how MCCS and ACA standards can be better aligned to prevent the duplication of efforts and resources; and (2) the proposed implementation schedule for ACA accreditation at each correctional facility. The department should also promulgate regulations amending MCCS' standards in accordance with the results of the study (see Appendix 3).





## **Appendix 1**

### **Charge for Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities**

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The Legislative Policy Committee is greatly concerned by recent indictments of correctional officers and prisoners at the State run local jail, the Baltimore City Detention Center. The circumstances outlined in the indictment clearly warrant an in depth and critical review of the laws, regulations, policies and practices affecting safety and security at not only the Baltimore City Detention Center but all State prisons and local jails. The Speaker of the House and the President of the Senate are therefore appointing a Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities.

The Commission's process will include an examination of the following:

1. The impact of practices of the police, prosecutors, public defenders, the bar, and the district and circuit courts that affect the size, security risk and duration of confinement for persons awaiting trial and sentenced to local jails;
2. Policies and practices governing the recruitment, hiring and training of correctional officers and other employees at State and local prisons and jails and their impact on security, workforce quality and retention;
3. Disciplinary policies and practices applicable to correctional officers and other employees and their impact on the ability of administrators to investigate allegations of wrong doing and to efficiently maintain security and good order;
4. The Maryland Correctional Training Commission and the Maryland Correctional Standards Commission and the duties and responsibilities and standards set by the Commissions for State and local correctional facilities and measures used to ensure compliance with approved standards;
5. The impact of salary and fringe benefit compensation levels for administrators, correctional officers and other employees on the ability of the government to recruit and retain a high quality work force aligned with the mission of their agencies;
6. Facility capital infrastructure and other workplace conditions and their impact on employee performance and conditions of confinement, including examination of reports of the Commission on Correctional standards, complaints and grievances filed by employees, and petitions from persons in confinement and issues caused by the confinement of juveniles charged as adults in adult facilities;
7. Effective staffing levels taking into account positions authorized, positions funded, vacancy rates, leave factors, and absenteeism patterns and their impact on efficient and secure administration;
8. The extent to which programming exists to reduce idleness among those confined and its impact on security;
9. The level of gang activities in local jails and State prison facilities;



10. The effectiveness of existing policies and practices to stop contraband from entering facilities, prevent its use within facilities, and confiscate once found;
11. The actions of the State Department of Public Safety and Correctional Services in response to the issues raised by the recent indictments in a manner that does not impede or interfere with any pending prosecutions or existing investigations;
12. Best practices for:
  - a. recruitment, hiring, training, certification, continuing education and ongoing evaluation and review of correctional facility staff and administration;
  - b. addressing gang activity, gang communication and gang violence within State and local correctional facilities; and
  - c. eliminating the use and prevalence of contraband materials within correctional facilities, including the use of cell phones and illegal substances;
13. Resources dedicated to internal investigations, as well as policies for coordinating with other law enforcement agencies on intelligence gathering and operational support;
14. All prior correctional facility task forces and commissions and prior recommendations for changes to law, regulation or policies; and
15. Any other matters the committee may deem relevant to the issues raised during the Commission's meetings and deliberations.

On or before December 31, 2013, the, the Joint Commission shall report to the Legislative Policy Committee and the entire General Assembly as to the Commission's findings, deliberations, and recommended actions in the 2014 Maryland General Assembly Session including:

- Recommended changes to State law, policies and regulations to:
  - reduce gang activity, communication, and violence within State and local correctional facilities;
  - effectively investigate and eliminate illegal or inappropriate employee conduct within State and local correctional facilities;
  - reduce the prevalence and use of contraband materials in State and local correctional facilities;
  - address any other matters brought to the attention of the Commission.
- Identification of any appropriate funding needs in the State budget to implement the Commission's findings and recommendations.

## **Appendix 2**

### **Draft Legislation**

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E1

4lr1201

Bill No.: \_\_\_\_\_

Drafted by:

Requested: \_\_\_\_\_

Committee: \_\_\_\_\_

By: **Leave Blank**

**A BILL ENTITLED**

**AN ACT concerning**

**Criminal Law – Contraband – Telecommunication Devices – Penalty**

FOR the purpose of prohibiting a person from attempting to deliver a telecommunication device to a person detained or confined in a certain place of confinement; increasing and applying the penalty for certain violations relating to delivering, possessing, or receiving a telecommunication device in a place of confinement; requiring a certain sentence to be served consecutive to another sentence; and generally relating to the prohibition against telecommunication devices in a place of confinement.

BY repealing and reenacting, with amendments,

Article - Criminal Law

Section 9-417

Annotated Code of Maryland

(2012 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Criminal Law**

9-417.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) (1) A person may not deliver OR ATTEMPT TO DELIVER a telecommunication device to a person detained or confined in a place of confinement with signs posted indicating that such conduct is prohibited.

(2) A person may not possess a telecommunication device with the intent to deliver it to a person detained or confined in a place of confinement with signs posted indicating that such conduct is prohibited.

(3) A person may not deposit or conceal a telecommunication device in or about a place of confinement with signs posted indicating that such conduct is prohibited or on any land appurtenant to the place of confinement with the intent that it be obtained by a person detained or confined in the place of confinement.

(4) A person detained or confined in a place of confinement may not knowingly possess or receive a telecommunication device.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding [3]5 years or a fine not exceeding [\$1,000]**\$3,000** or both.

(C) A SENTENCE IMPOSED FOR A VIOLATION OF SUBSECTION (A)(4) OF THIS SECTION SHALL BE CONSECUTIVE TO ANY SENTENCE THAT THE PERSON WAS SERVING AT THE TIME OF THE CRIME OR THAT HAD BEEN IMPOSED BUT WAS NOT YET BEING SERVED AT THE TIME OF SENTENCING.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

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## **Appendix 3**

### **Draft Legislation**

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Bill No.: \_\_\_\_\_

Drafted by:

Requested: \_\_\_\_\_

Committee: \_\_\_\_\_

By: **Leave Blank**

**A BILL ENTITLED**

**AN ACT concerning**

**Recommendations of the Special Joint Commission on Public Safety and  
Security in State and Local Correctional Facilities**

FOR the purpose of authorizing the appointing authority of a State correctional facility to impose on a correctional officer an emergency suspension of correctional powers without pay if the correctional officer is charged with a certain contraband violation; requiring the Secretary of Public Safety and Correctional Services to direct the Department of Public Safety and Correctional Services to study a certain issue on or before a certain date; requiring the Secretary to adopt certain regulations and make a certain report to the Governor and General Assembly on or before a certain date; and generally relating to public safety and security in State and local correctional facilities.

BY repealing and reenacting, with amendments,

Article – Correctional Services

Section 10–913

Annotated Code of Maryland

(2008 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, without amendments,

Article – Criminal Law

Section 9–412, 9–415, 9–416, and 9–417

Annotated Code of Maryland

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.



(2008 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Correctional Services**

10-913.

(a) This subtitle does not prohibit emergency suspension with pay by a correctional officer of higher rank as designated by the appointing authority.

(b) (1) The appointing authority may impose emergency suspension with pay if it appears that the action is in the best interest of the inmates, the public, and the correctional facility.

(2) If the correctional officer is suspended with pay, the appointing authority may suspend the correctional powers of the correctional officer and reassign the correctional officer to restricted duties pending:

(i) a determination by a court with respect to a criminal violation; or

(ii) a final determination by the hearing board or the Office of Administrative Hearings with respect to a correctional facility violation.

(3) A correctional officer who is suspended under this subsection is entitled to a prompt hearing.

(c) (1) [If a correctional officer is charged with a felony, the] THE appointing authority may impose an emergency suspension of correctional powers without pay IF:

(I) A CORRECTIONAL OFFICER IS CHARGED WITH A FELONY; OR

(II) A CORRECTIONAL OFFICER IS CHARGED WITH A VIOLATION OF § 9-412, § 9-415, § 9-416, OR § 9-417 OF THE CRIMINAL LAW ARTICLE.

(2) A correctional officer who is suspended under paragraph (1) of this subsection is entitled to a prompt hearing, held no more than 90 days after the suspension.



(3) Except as provided in paragraph (4) of this subsection, a correctional officer who is suspended under paragraph (1) of this subsection and who is not convicted of the felony for which the suspension was imposed shall have:

- (i) the suspension rescinded; and
- (ii) any lost time, compensation, status, and benefits restored.

(4) Paragraph (3) of this subsection does not apply to a correctional officer who:

(i) resigns before the disposition of the criminal matter for which the suspension was imposed; or

(ii) is no longer employed by the Department when a determination is made by a court with respect to the criminal matter for which the suspension was imposed.

### Article – Criminal Law

9-412.

(a) A person may not:

(1) deliver any contraband to a person detained or confined in a place of confinement;

(2) possess any contraband with intent to deliver it to a person detained or confined in a place of confinement; or

(3) knowingly possess contraband in a place of confinement.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

9-415.

(a) This section does not apply to an alcoholic beverage delivered or possessed in a manner authorized by the managing official.

(b) A person may not:

(1) deliver an alcoholic beverage to a person detained or confined in a place of confinement; or

(2) possess an alcoholic beverage with the intent to deliver it to a person detained or confined in a place of confinement.

(c) A person detained or confined in a place of confinement may not knowingly possess or receive an alcoholic beverage.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

9-416.

(a) A person may not:

(1) deliver a controlled dangerous substance to a person detained or confined in a place of confinement; or

(2) possess a controlled dangerous substance with the intent to deliver it to a person detained or confined in a place of confinement.

(b) A person detained or confined in a place of confinement may not knowingly possess or receive a controlled dangerous substance.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

9-417.

(a) (1) A person may not deliver a telecommunication device to a person detained or confined in a place of confinement with signs posted indicating that such conduct is prohibited.

(2) A person may not possess a telecommunication device with the intent to deliver it to a person detained or confined in a place of confinement with signs posted indicating that such conduct is prohibited.

(3) A person may not deposit or conceal a telecommunication device in or about a place of confinement with signs posted indicating that such conduct is prohibited or on any land appurtenant to the place of confinement with the intent that it be obtained by a person detained or confined in the place of confinement.

(4) A person detained or confined in a place of confinement may not knowingly possess or receive a telecommunication device.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2014, the Secretary of Public Safety and Correctional Services shall:

(1) direct the Department to study:

(a) the extent to which correctional facilities in the State are in compliance with mandatory standards set by the Maryland Commission on Correctional Standards;

(b) methods to prevent duplication of efforts and resources with facility evaluations conducted by both the Commission and the American Correctional Association; and

(c) methods to align standards at all correctional facilities, regardless of whether the facility is accredited by the American Correctional Association;

(2) adopt regulations amending the Commission's standards in accordance with the results of the study;

(3) provide the proposed implementation schedule for American Correctional Association accreditation at each correctional facility; and

(4) report the study findings and accompanying regulatory changes to the Governor and General Assembly, in accordance with § 2-1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.