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POSITION ON PROPOSED LEGISLATION

BILL: HB604 - Office of the Attorney General – Correctional Ombudsman

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 2/10/2022

The Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 604.

Independent oversight and expanded opportunities to improve and reform current conditions within Maryland's correctional facilities is long overdue,¹ and has become particularly urgent with the current COVID pandemic.² Public defenders throughout the state regularly hear from clients with disturbing complaints on a variety of issues, such as lack of access to needed medical care and/or medication, officer abuse and misconduct, overuse of isolation, plumbing and sanitation deficiencies, and insufficient heat or ventilation. A sampling of concerns that have been raised to our office in the past year, and would have benefited from an ombudsman, include:

¹ See e.g., *Ailing System Struggles with Inmate Care*, THE BALTIMORE SUN, June 10, 2005, available at <https://www.baltimoresun.com/maryland/bal-te.md.prisons10jun10-story.html>; *City Jail Grievance System Broken*, THE BALTIMORE SUN, July 6, 2013, available at <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-bcdc-grievances-20130706-story.html>; Disability Rights Maryland, *SEGREGATION AND SUICIDE: CONFINEMENT AT THE MARYLAND CORRECTIONAL INSTITUTION FOR WOMEN*, December 14, 2018, available at https://disabilityrightsmd.org/wp-content/uploads/2018/12/MCIW_Report-Final.pdf.

² See, e.g., *'Treated like an animal' | Man details COVID-19, conditions at Prince George's County jail ahead of hearing on lawsuit*, WUSA9, June 23, 2020, available at <https://www.wusa9.com/article/news/local/maryland/man-details-covid-19-conditions-at-prince-georges-county-jail-ahead-of-hearing-on-lawsuit/65-05afa926-5939-408c-89de-6d63a3378892>; *State agrees to provide vaccines, cleaner conditions for inmates at Baltimore jail to end COVID-19 lawsuit*, THE BALTIMORE SUN, April 15, 2021, available at <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-cdf-coronavirus-lawsuit-settlement-20210415-uxrrgvdurndijfg77yr2ffl6ry-story.html>; *Correctional Officers: Understaffing Creates Unsafe Conditions At State Prisons, Jails*, WJZ-13 CBS Baltimore, available at <https://baltimore.cbslocal.com/2022/01/10/correctional-officers-understaffing-creates-unsafe-conditions-at-state-prisons-jails/>.

- Complaints about lack of heat, which resulted in at least one person going to the hospital with hypothermia;
- Lack of access to prescribed medication for established and often serious medical conditions;
- Lack of access to masks and other PPEs;
- Extended isolation of people who test positive or were exposed to COVID;
- Lack of shower access for people in quarantine for more than 10 days;
- Mingling protective custody and general population inmates because segregation units were used for quarantining;
- Youth charged as adults placed in extended isolation without any access to school or rehabilitative programming;
- Plumbing issues that require using blankets and towels to prevent water from entering sleeping area. In one facility, feces flushed down one toilet appeared in another toilet because the pipes were so backed up;
- Mold on ceiling and in air vents.

Our attorneys are very concerned for the health safety, and wellbeing of our clients, but we lack the capacity, statutory authority, and expertise to address these issues. An independent ombudsman would serve as an effective and efficient way to have concerns reviewed and redressed, minimizing the harm of issues that are ignored due to technical grievance requirements and possible litigation of issues that may eventually be properly grieved but not actually resolved.

The Juvenile Justice Monitoring Unit (JJMU), which similar to the ombudsmen proposed under this bill is an independent agency housed in the Attorney General's office, shows how valuable and effective such an entity can be. Formed in the wake of widespread systemic abuses throughout the juvenile justice system, the JJMU has improved transparency and accountability about the plight of children incarcerated in Maryland's juvenile justice system. OPD's juvenile defenders have provided information to the JJMU with assurance that issues will be given prompt and sufficient attention to encourage positive change without waiting for conditions and their resulting harms to exacerbate.

In healthcare and other settings, prisoners are often considered a vulnerable population because of the constraints of incarceration as well as their disproportionate poverty and limited access to community services. Individual prisoners also frequently have heightened risk factors due to their age (young or old), medical and/or mental health conditions, and other factors (LGBT status, non-English speaking, etc.). An independent monitoring agency is as urgently needed for these individuals as they are for the children in DJS facilities.

Sweeping efforts across the country and world are taking heed to the notion that it is time we take a closer look at the conditions of confinement at every level of government amidst an unrelenting backdrop of inhumane conditions that fail to reduce recidivism or properly rehabilitate incarcerated individuals.³ The implementation of an independent Correctional Ombudsman to oversee and investigate long-standing systemic problems within Maryland's correctional system is a great start and a welcomed effort to help root out and eliminate the underlying causes of widespread dysfunction and corruption that have undermined rehabilitative efforts for incarcerated individuals.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on HB604.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

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³ The Vera Institute, REIMAGINING PRISON, October 2018, *available at* https://www.vera.org/downloads/publications/Reimagining-Prison_FINAL3_digital.pdf.