

SB 512- Correctional Ombudsman- testimony-UULM-MD-

Uploaded by: Ashley Egan

Position: FAV



Unitarian Universalist Legislative Ministry of Maryland

Testimony in Support of SB 512: Office of the Attorney General - Correctional Ombudsman

TO: Chair William C. Smith and the members of the Judicial Proceedings Committee
FROM: Karen “Candy” Clark, Lead Advocate, Criminal Justice Reform
Unitarian Universalist Legislative Ministry of Maryland
DATE: February 17, 2022

The Unitarian Universalist Legislative Ministry of Maryland, strongly urges your support for SB 512: Office of the Attorney General - Correctional Ombudsman bill.

Recently Maryland’s police accountability reforms recognized that outside oversight contributes to building trust and justice for the victims of officers’ inappropriate use of power. So, too, will SB 512. A Correctional Ombudsman program benefits the prison environment, brings justice for the victims and holds those with power accountable to our Correctional system.

Several years ago when Gov. Hogan appointed Ron Green as Secretary of Corrections, within a short time he was faced with a long on-going scandal involving about a dozen employees and others. This was one of 5 major scandals that had occurred over the past 11 years.

MARYLAND CAN DO BETTER THAN THIS!!

By establishing an impartial independent oversight in a public office, the information coming out of the individual prisons will be more reliable. Having unannounced visits– including the right to talk with anyone– will add strength to its role. Our correctional institutions should be a just environment in which offenders are in the process of rehabilitation

Currently our Juvenile System uses this process for oversight of its various smaller housing facilities for the youth. A detailed quarterly report is published which includes data, interviews with the youth and the condition of the facilities, etc. This helps to keep the system working as it is intended and reveals issues that need to be addressed.

Maryland citizens need a system that we can be proud of, that honors the inherent dignity and worth of our offenders while we help them to prepare for a successful reentry .

Please give SB 512 a FAVORABLE vote,

Respectfully submitted,

Karen Clark

UULM-MD Lead Advocate, Criminal Justice Reform

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SB 512 Support.pdf

Uploaded by: Kimberly Haven

Position: FAV

Kimberly Haven

February 17, 2022

Chairman Will Smith
Vice Chairman Jeff Waldstreicher
Senate Judicial Proceedings Committee

Senate Bill 512 –
Office of the Attorney General – Correctional Ombudsman
POSITION: FAVORABLE

Members of the Senate Judicial Proceedings Committee,

My name is Kimberly Haven, and I am the Legislative Liaison for Interfaith Action for Human Rights and the Executive Director of Forward Justice Maryland. *I offer this testimony in support of SB 512.*

I have testified before this committee and stated that “we can’t fight or address what we can’t see, and we can’t see what they don’t show us.” SB 512 provides a mechanism for the oversight of the Department of Public Safety that is both long overdue and needed.

Currently the Department maintains that they have the policies and procedures in place that purport to address the issues raised by this legislation. The reality it is tantamount to the department policing itself. This provides no transparency and no accountability which only gives tacit permission for the concerns of advocates to continue.

This is good legislation. In the House hearing, the Department offered that they were seeking accreditations for all of their facilities. However, the accreditation process is conducted by and based on policies developed by correctional officials.

Advocates, families, communities, and taxpayers need this impartial body to ensure that our facilities are safe, that they are well managed and that all of its operations are transparent. There currently exists no accountability for the myriad of failed policies that advocates work tirelessly to address – only to be met with a stone wall.

This legislation is long overdue. We have worked for years on various pieces of reform and worked to include reporting requirements. Typically, these are beaten back by the Department. To have an impartial entity both responsible for oversight and empowered with the tools and resources to

investigate will shine a bright light on the conditions and concerns that have only deepened over the years.

One other aspect of the House hearing that I would be remiss if I did not flag was the statement concerning PRISM. This organization is totally funded by the State (again the police policing themselves), they are not responsive to complaints or concerns from those incarcerated in our prisons and are not required to respond to advocates and attorneys. Why would they when the State is their client.

This legislation is good policy. It will move Maryland in the right direction – the direction of transparency and accountability. It will ensure that one of the biggest budgets in our State does not continue to be a black hole that we just keep pouring money into with out a return on our investment.

As I stated in my opening, we can't fight or address what we can't see, and we can't see what they won't show us. SB 512 will bring to light what we must address within our correctional system.

For these reasons and on behalf of Interfaith Action for Human Rights and Forward Justice Maryland, *I urge a favorable report on SB 512.*

Respectfully submitted,

Kimberly Haven
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OPD Position on SB0512.pdf

Uploaded by: Melissa Rothstein

Position: FAV



PAUL DeWOLFE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
DIRECTOR OF POLICY AND DEVELOPMENT

KRYSTAL WILLIAMS
DIRECTOR OF GOVERNMENT RELATIONS DIVISION

ELIZABETH HILLIARD
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

POSITION ON PROPOSED LEGISLATION

BILL: SB512 - Office of the Attorney General – Correctional Ombudsman

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 2/15/2022

The Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 512.

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 SB6512.

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

Authored by: Melissa Rothstein, Director of Policy and Development,

melissa.rothstein@maryland.gov, 410-767-9853.

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

JJMU SUPPORT - SB 512 - OAG - CORRECTIONAL OMBUDSM

Uploaded by: Nick Moroney

Position: FAV



STATE OF MARYLAND
JUVENILE JUSTICE MONITORING UNIT

**TESTIMONY IN SUPPORT OF SB 512: OFFICE OF THE ATTORNEY GENERAL –
CORRECTIONAL OMBUDSMAN**

Senate Judicial Proceedings Committee
February 17, 2022

Submitted by Nick Moroney, director, Juvenile Justice Monitoring Unit (JJMU)

The Juvenile Justice Monitoring Unit (JJMU) supports SB 512 which will improve safety and services inside Maryland's prisons by providing independent oversight of the corrections system. Our unit was established as an independent state agency in the wake of widespread systemic abuse issues in the Maryland juvenile justice system. We are currently housed in the offices of the State Attorney General. Unit monitors perform unannounced visits to Maryland Department of Juvenile Services' (DJS') operated facilities in order to guard against abuse of incarcerated young people and ensure that they receive appropriate treatment and services. The JJMU has been instrumental in driving positive changes by increasing system transparency and accountability as well as raising awareness about the needs of incarcerated children and young people in Maryland. Our public reports can be accessed via the following link: <https://www.marylandattorneygeneral.gov/pages/jjm/default.aspx>

Unfortunately and in contrast to the Maryland juvenile justice system, people housed in prisons in our state have been left without the protections and early interventions that an effective independent watchdog can bring. We have found that external oversight works as an essential safeguard against the many kinds of abuses that can occur inside high fences and behind locked doors, and we believe that the Ombudsman's office as envisioned by SB 512 can accomplish a similar mission to ours by helping to transform the corrections system for the better. We have worked constructively with stakeholders throughout the juvenile justice system in pursuit of our mission and the proposed Ombudsman's office can achieve similar success through positive collaboration with those involved and impacted by the Maryland corrections system.

We are confident that the Ombudsman's office will mitigate abuse and help to address potentially serious shortcomings before they become chronic systemic issues. The passage of SB 512 into law will bring much needed transparency, accountability, and oversight to Maryland's prison system and will promote the safety, health, mental health and overall well-being of individuals in state custody by ensuring that incarcerated people receive adequate rehabilitative services to facilitate successful community re-entry.

Public reporting requirements within the bill will keep Maryland citizens and criminal justice stakeholders aware of systemic issues and proposed solutions to problems within the correctional system. This heightened awareness of conditions of confinement is an essential first step toward constructive prison reform measures leading to a more effective corrections system – one that better equips imprisoned people for a productive life in their communities. Such an outcome will help reduce recidivism, strengthen families and communities, and result in enhanced public safety for our state.

For all the reasons just given, the JJMU strongly supports this bill and respectfully urges the committee to give SB 512 a favorable report.

O. Moyd Testimony HB 0604 - SB 0512.pdf

Uploaded by: Olinda Moyd, Esquire

Position: FAV

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



February 11, 2022

Olinda Moyd, Esq.

Testimony in Favor of HB 0604 and SB 0512 – Correctional Ombudsman

Transparency and accountability are hallmark to the efficient operations of many forms of government systems. The operation of our jails and prisons should be no different and the walls built to keep detainees confined should not also be used to keep the public out. There are several reasons why we have proposed and support this bill.

I chair the Behind the Walls workgroup for MAJR and we receive numerous letters which include details about problems, such as medical and mental health care, access to the courts and rehabilitation programs and property matters that should be addressed immediately before they become systemic issues. As a Prisoner's Rights attorney, I am keenly aware that individual litigation and class action lawsuits can be costly and time consuming. The Administrative Remedy Procedures are spelled out in COMAR 12.02.28.1 However, many individuals behind bars state that the ARP process does not always work to resolve issues, that if the APR coordinator is out on leave their complaints go unresolved, or they get dismissed at the first stage for procedural reasons. Regular monitoring and reporting by a correctional ombudsman allows for early detection of problems and addressing them in lieu of waiting for months to complete the ARP process.¹

Services and programs often get discontinued randomly, without explanation and family members get banned, turned away and are treated like criminal suspects during visits. Maintaining family connections during incarceration helps to maintain the family unit, it enhances the well-being of the individual who is incarcerated and it facilitates their post-release success. It also serves to maintain peaceful operations within the institutions. Volunteers and family members should be treated with respect and have an avenue to complain without fear of reprisal, which is one essential element in this bill. Volunteers have kept many of the limited programs afloat even during the pandemic. They should not be made to feel unwelcome and the value that they bring to institutional operations must be recognized.

The correctional ombudsman would also provide an opportunity for staff to confidentially share their concerns about past incidents and about emerging problems, and to highlight those aspects of prison

¹ Code of Maryland Regulations, Title 12. Department of Public Safety and Correctional Services, Administrative Remedy Procedures to Resolve Inmate Complaints

operations that are working well. Having an external, independent oversight can be effective and positively impact the overall facility operations for both staff and the incarcerated population alike.

The bill outlines that the purpose of the correctional ombudsman is to investigate complaints, conduct independent reviews and assessments, inspect the premises via unannounced visits, seek to resolve complaints through mediation and provide annual reports. This office would operate similarly to the Juvenile Justice Monitoring Unit, which has enhanced transparency. Most importantly, the American Bar Association policy on oversight calls on every state to create similar oversight.² This Ombudsman office would be enhanced by the support of the community-based advisory committee made up of a broad range of individuals, to include returning citizens.

This bill is designed to meet what the ABA calls for. Without a system of external oversight there are few ways to determine if Department of Public Safety and Correctional Services priorities and mission are consistent with actual practice.

We urge a favorable report.

Thank you for your time and attention.

² See ABA Report to the House of Delegates, Monitoring Correctional and Detention Facilities, January 2018

Support SB 512-corrections ombudsman.docx.pdf

Uploaded by: Philip Caroom

Position: FAV

Support SB 512 – Correctional Ombudsman Act

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Will Smith and Senate Judicial Proc. Com.
FROM: Phil Caroom, MAJR Executive Committee
DATE: February 16, 2022

Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) strongly supports SB 512 to create an independent Correctional Ombudsman office which could bring light, recommendations and expedite solutions for a wide range of long-standing problems experienced in Maryland prisons.

How would ombudsman offices improve, and not duplicate, Md. prisons oversight? : An ombudsman office would be independent, not under direct control of Correctional administrators. With unannounced inspections, “whistle-blower” protection, alternate dispute resolution (ADR), independent public reporting and recommendations, an ombudsman office would improve functioning of Maryland prisons because:

-Correctional Standards Commission provides only pre-scheduled inspections by colleagues and would receive results of Ombudsman’s unannounced inspections;

-DPSCS Inspector General prosecutions would receive information from ombudsman investigations in addition to traditional sources and has advised MAJR it sees no duplication of functions;

-DPSCS administrators, constrained by political concerns to “put the best face” on problems in press releases, would have their many resource needs more fully articulated and publicized; and

-DPSCS Administrative Remedy Procedure (ARP) and Inmate Grievance Office (IGO), today, offer an extremely bureaucratic process in which prisoners make initial complaints to the same correctional officers who often are the subjects of the complaints. Then, if dissatisfied, prisoner face four-levels of adversarial review -- three of which involve costly attorneys & judicial officers. An ombudsman would provide a neutral mediator who could offer possible resolutions at the earliest level(s) and would assess chronic problems in the system.

What’s the problem?: Maryland prisons, today, confront management problems that emerge from political pressures, budget cuts, and inconsistencies between centralized control and decentralized fiefdoms of wardens and correctional administrators. Full disclosure is prevented by political / public relations concerns and bureaucratic defensiveness. Resultant problems and ombudsman solutions include:

Systemic problems

Ombudsman solutions

1) Smuggling of contraband and abuse of prisoners by rogue correctional officers- News reports indicate approximately 50 Md. DPSCS correctional officers in six state prisons indicted in the past 12 years. Division of Corrections’ most common response has blamed and restricted prisoners’ family visitation. Prison overdoses continued in 2021, despite the pandemic interruption of visitors!

– Confidential reports as to correctional officers’ corruption would become easier with an ombudsman statute preventing whistle-blower reprisal against inmates and conscientious colleagues.

Compare Baltimore Sun, 4/16/19 report as to “Prison Smuggling” indictments that resulted from a prisoner’s tip.

2) Prisoner healthcare & substance abuse concerns– This is the single most common use by sister states’ programs and a huge expense for Maryland prisons.

-- Notably, active substance abuse within Maryland prisons is untreated in the majority of those suffering and treated in only a small minority of prisoners. **See testimony of Anita Weist.**

(continued on p.2)

Ombudsmen’s careful study of medical records in other states has helped to triangulate, identify problems and permit more efficient management. For example, the **N.J. Corrections Ombudsman office reports that it has “greatly reduced” the number of lawsuits filed against its state’s prisons.** That office also is tasked with monitoring statutorily restricted use of solitary confinement. **Other states have identified particular prison health care offices that create the majority of problems.**

3)Disregard by DPSCS correctional officers of COVID-19 rules over a number of months – Early reports by Md. prisoners, families & advocates have been ignored until statistics show alarming outbreaks, such as that at Eastern Correctional Institute where 63 new cases were reported in a single week on 11/18/20.

-An independent ombudsman might carry more credibility and, thus, result in quicker responses. **In Nebraska’s correctional ombudsman-equivalent Inspector-General’s office (OIG), OIG engaged in almost daily communications with corrections administrators until changes were implemented.**

4)Inadequate education, vocational, peer mentoring, and counseling services-While DPSCS webpages cherry-pick minimal facts as to educational and vocational accomplishments, these lack proper context.

- Even the most effective and cost-efficient behavioral management programs, such as “Thinking for a Change” using peer mentors, have been cut. GEDs, job-training, and drug treatment numbers all have dropped in recent years. Such programs, as well as education and vocational training, both reduce prison security problems and prisoners’ recidivism upon release. An ombudsman report would offer the “big picture” and full context as to how cuts have hurt prison’s effectiveness. **See testimony of former ECI warden - Kathleen Green.**

5)Overly-harsh bans of prison volunteers and family members despite inadequate notice of rules- Over many years, volunteers and family members report years-long “banning” from Md. prisons for minimal violations of wardens’ little-publicized rules against “social contact” with inmates like sending a birthday card or a reminder of upcoming classes within the prisons.

See, e.g., testimony of Mary Joel Davis – being banned 6 months for sending a reminder postcard after years of volunteer work with prisoners’ group-counseling. An entire group of volunteers was banned 2 years for signing a birthday card to a prisoner. Also, see testimony of Lea Green, president of Maryland C.U.R.E. - and mother of a “lifer,” banned 5 years for a brief greeting to another prisoner in a hallway. An Ombudsman report and recommendation could help standardize volunteer/visitor rules and minimize sanctions that, today, prevent rehabilitative contact with the community outside the prisons.

Will this work?: Maryland’s successful Juvenile Justice Monitor Unit (JJMU) has operated since 2006 as an independent ombudsman-like program for our State’s 7 juvenile (temporary) detention and 4 committed (longterm) placement units. It offers an excellent model for how cooperation rather than duplication and for prevention rather than crisis-response. **See testimony of Nick Morony, JJMU director.**

Eight states sister and large counties in eight more states all have adopted correctional ombudsman or similar systems with different names. (See **“*But Who Oversees The Overseers?: The Status Of Prison And Jail Oversight In The United States,*” Prof. Michele Deitch, American Journal of Criminal Law - pending 2021 publication.**)

With his 10/10/19 proclamation, Governor Larry Hogan joined a national trend of support for ombudsmen as an alternate dispute resolution (ADR) system to provide an “essential supplement” and “powerful risk management” for government and other organizations. Organizations specifically endorsing and promoting correctional ombudsman use include the American Bar Association and the U.S. Ombudsman Association

Conclusion: Phased in with a first-year pilot plan focused on Jessup institutions and system-wide gaps in services (education, job-training, drug-treatment, peer-counseling), HB 604 / SB 512 could help to make big improvements in Maryland prisons at comparatively small costs. Please give a favorable report to this important bill!

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PLEASE NOTE: Phil Caroom files this testimony for MAJR and not for the Md. Judiciary.

SB0512 Testimony.pdf

Uploaded by: Rebecca McAfee

Position: FAV

My name is Rebecca McAfee. I was incarcerated at Baltimore County Detention Center in 2019 for non-criminal traffic violations. The current grievance procedure is not working. A fellow inmate informed me of the 200 forms I could request from the CO when I had a grievance to file. A few grievances I had while at BCDC are as follows:

- I wasn't released after my bail was posted. I spoke with multiple DOC staff regarding this issue. There was no help.
- CO's would withhold food from me, in which I lost 30 pounds.
- I witnessed a fellow inmate attempt suicide and not receive any medical attention for 24 hours.
- When I came back to BCDC after my court date I found drugs planted in my cell and in my laundry bag—If I had been released that day I would have been charged with felony drug charges. I told a sergeant about this and this was brushed under the rug.
- My inmate uniform was taken from me and I was left naked in a cell for 48 hours. The CO that placed me on this type of watch claimed that I was suicidal. I was not suicidal.
- A CO had kept me on lock for the majority of her shift for no reason. I asked her for a 200 form. Instead of receiving a 200 form I was placed on lock for 8 days.
- I was jumped by 4 female correctional officers the day I was supposed to be released on 8/13/19. I was held for another month before I was released.

I didn't feel safe to follow the grievance procedure in requesting a 200 form. The oppressed cannot address their grievances to the oppressor, and shouldn't be required to do so.

The people that are facing these injustices are our fellow neighbors, our friends, our mothers, our fathers, our sons, our daughters, our aunts, and our uncles.

As the elected legislators for Maryland, you have the power to end the current broken grievance process by passing this bill and allowing an outside agency to step in and oversee such grievances, and hold DOC staff accountable for their continued inhumane treatment of the citizens of Maryland.

Testimony SB512.pdf

Uploaded by: Rebecca McAfee

Position: FAV

My name is Rebecca McAfee. I was incarcerated at Baltimore County Detention Center in 2019 for non-criminal traffic violations. During my time there I saw first hand how the current grievance procedure is not working. I wasn't aware of the protocol to file a grievance until halfway through my incarceration where a fellow inmate informed me of the 200 forms I could request from the CO when I had a grievance to file. A few grievances I had while at BCDC are as follows:

- I wasn't released after my bail was posted, instead I was held until my court date on June 10, 2019. I spoke with Sergeants, correctional officers, social workers, and psychiatrists within the DOC regarding this issue, which was just brushed under the rug and no help.
- Correctional officers would withhold food from me, in which I lost 30 pounds and I wasn't working out.
- I witnessed a fellow inmate attempt suicide and not receive any medical attention for 24 hours.
- When I came back to BCDC after my court date I found drugs planted in my cell and in my laundry bag that I didn't put there—if I had been released that day I would have been charged with felony drug charges. I told a sergeant about this and this was also brushed under the rug.
- My inmate uniform was taken from me and I was left naked in a cell for 48 hours. The CO that placed me on this type of watch claimed that I was suicidal. I was not suicidal.
- A CO had kept me on lock for the majority of her shift for no reason, which happened more times than I can count. I finally got the nerve to ask her for a 200 form. Instead of receiving a 200 form I was placed on lock for 8 days.
- I was jumped by 4 female correctional officers, which included a Sergeant, the day I was supposed to be released on 8/13/19. I was then kept on lock for another 19 days. On 8/14/19, while I was still housed on lock, I was charged as a fugitive for PA by the Baltimore County Fugitive task force. I wasn't a fugitive. I was finally released on 9/12/19 to the street, a month after I was to have been released on 8/13/19.

I didn't know who to contact regarding the injustices that not only I faced, but those of fellow inmates. I didn't feel safe to follow the grievance procedure in requesting a 200 form. I didn't want to get locked in again, and I am still waiting for the first 200 form I requested back in 2019. The oppressed cannot address their grievances to the oppressor, and shouldn't be required to do so.

The people that are facing these injustices while incarcerated are our fellow neighbors, our friends, our mothers, our fathers, our sons, our daughters, our aunts, and our uncles.

As the elected legislators for Maryland, you have the power to end the current broken grievance process by passing this bill and allowing an outside agency to step in and oversee that justice is served where necessary, and that DOC staff are held accountable for their continued inhumane treatment of the citizens of Maryland.

SB512_Hettleman_FAV.pdf

Uploaded by: Shelly Hettleman

Position: FAV



The Senate of Maryland
ANNAPOLIS, MARYLAND 21401

TESTIMONY OF SENATOR SHELLY HETTLEMAN
SB 512 – OFFICE OF THE ATTORNEY GENERAL – CORRECTIONAL OMBUDSMAN

While long overdue, independent oversight and the opportunity to improve current conditions within Maryland’s correctional facilities has become particularly urgent with the current COVID pandemic. Educational programs, programs to address substance abuse and reentry support services are especially challenged and an already isolated population became even more cut off from the world.

Senate Bill 512 establishes the Office of the Ombudsman for correctional facilities in the Office of the Attorney General, to provide public reports and recommendations on the needs and rights of prisoners, their families, and prison volunteers. This position would provide needed **independent** oversight of the adult corrections system, while improving safety and other conditions inside Maryland’s prisons.

The bill establishes necessary processes and reporting mechanisms for addressing concerns and promoting transparency within Maryland’s prisons. The Office of the Ombudsman would be responsible for:

1. Investigating complaints concerning incarcerated persons’ health, safety, welfare, and rights
2. Providing pertinent information to prisoners and their families
3. Identifying and publicizing pervasive systemic issues
4. Monitoring compliance of the Department of Corrections with relevant statutes and policies

Over the past few years, the General Assembly has recognized the importance of independent assessment of some of our larger agencies. Just last year, we created an Office of Inspector General for the Department of Health that is independent from the agency. We have created a similar entity with regard to school oversight, and only a few days ago we created an Accountability and Implementation Board solely focused on the Blueprint for Maryland’s future.

The FY2023 budget for the Department of Public Safety and Correctional Services (DPSCS) is over \$1.4 billion. The Department operates 13 correctional facilities, 5 detention facilities in Baltimore City, it is responsible for nearly 18,000 offenders, and supervises thousands through parole and probation. In all, DPSCS employs nearly 10% of the state workforce and accounts for over 5% of general fund expenditures.

The operations of correctional and detention facilities should be transparent and accountable to the public they serve. Public identification of significant problems in correctional conditions and operations can and should lead to the rectification of those problems, resulting in correctional and detention facilities that are safer, operated in conformity with best practices, the Constitution, and better equip inmates for a successful reentry into society.

Second, potential problems that have been overlooked, perhaps unintentionally, can be detected and prevented from becoming major issues through the objective observations of an entity that is wholly independent of the facility being inspected.

Third, external oversight of correctional operations and the problem solving that it initiates can be a cost-effective and proactive means to potentially avert lawsuits challenging the legality of conditions of confinement or the treatment of prisoners.

Fourth, the factual findings of the monitoring entity can substantiate the need for funds requested by correctional administrators. And finally, the revelation by a monitoring entity of what is and is not happening behind prison walls can lead to better-informed decisions about a jurisdiction's sentencing and correctional policies.

The Juvenile Justice Monitoring Unit based out of the Attorney General's office is an excellent model of the kind of collaborative working relationship that can flourish between an agency and an ombudsman. Created in response to a scandal in the juvenile justice system, we should not wait for another crisis behind the walls to create this oversight mechanism. We already know of at least 5 major scandals since 2008 including bribery, drug trafficking, corruption, money laundering and gang activity in Jessup, the Baltimore City Detention Center, and Eastern Correctional Institute.

The agency may assert that there are sufficient oversight mechanisms in place through the Commission on Correctional Standards, Office of Legislative Audits, and other bodies. To my knowledge, none of these entities makes surprise visits. Rather, facilities know exactly when they are to visit, resulting in a flurry of activity to prepare. They are assessed through presentation rather than observation. Finally, we have heard via direct communication from individuals in many of the institutions that the internal grievance processes are ineffective and structurally deficient.

By establishing the Office of the Ombudsman in the Attorney General's office, Maryland would join more than ten other states in practicing good-government, providing an independent Ombudsman to publicly report on and make recommendations to improve our correctional facilities. Thank you.

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Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 512
Office of the Attorney General – Correctional Ombudsman
DATE: February 9, 2022
(2/17)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 512. This bill establishes the Correctional Ombudsman in the Office of the Attorney General.

It is unclear whether this bill is intended to cover Judiciary employees, as outlined below, but raises separation of power concerns if so. The first area that causes concern in this bill comes at page 5 under the definition of agency in Proposed State Government Article 6-601(c)(iii) and (iv):

iii: Any person providing services under a contract with the Department of Public Safety and Correctional Services to Individuals who are confined by or under the supervision of the department or

iv: Any officer, employee, or administrative hearing examiner of the state or a unit of local government who is acting or purporting to act in relation to individuals confined by or under the supervision of the Department of Public Safety and Correctional services.

Judges are expressly excluded from the definition of “agency,” so the issue is whether a Judiciary employee would fall under c(iii) or (iv) above.

“Unit” is only used for local government entities, so the determination here is whether or not a Judiciary employee acting in the capacity above is “of the state.” Absent any other language, given that the Judiciary has state-compensated employees, this would likely apply to Judiciary employees engaged in referenced acts (likely programs and problem solving courts staff). Subsection (iii) is more problematic if the Judiciary has employees who perform services under Memorandum of Understandings (MOUs) with the Department as there is no specific state employee requirement.

Further, and also troublesome for statutory interpretation, is subsection (2) which states that “agency” does not include:

- (i) A Judge as defined by 1-101 of the Courts Article;
- (ii) The General Assembly or any member, employee, or committee of the General Assembly;
- (iii) The Governor or the Governor’s personal staff.

Here, the executive and legislative branch personnel have specific carve outs for staff and employees, so the absence of the same for Judiciary employees suggests that they are intended to be included.

Further, section 6-604 may limit investigations generally to “administrative acts” of agencies but the definition of “administrative act” is extremely broad, especially given the vague definition of “agency.” The bill defines administrative act as any action decision, adjudication, failure to act, omission, rule or regulation, interpretation, recommendation, policy, practice or procedure of an agency. For example, if it applies to Judiciary employees and a defendant complains about conditions in a courthouse lockup, the bill appears to allow the ombudsman to “access any records maintained by the” Judiciary. It could even be as broad to include responses to letters from inmates making random requests. Given the vague definition of agency, plus broad investigative authority of the ombudsman, this bill is highly problematic.

cc. Hon. Shelly Hettleman
Judicial Council
Legislative Committee
Kelley O’Connor

SB512 - Corr. Ombudsman.pdf

Uploaded by: Jennifer Beskid

Position: INFO



Department of Public Safety and Correctional Services

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JENNIFER BESKID
DIRECTOR

BILL: SENATE BILL 512

POSITION: LETTER OF CONCERN

EXPLANATION: This bill establishes a Correctional Ombudsman in the Office of the Attorney General and describes the qualifications and responsibilities of the ombudsman to include receipt of specific reports and audits; as well as the ability to conduct unannounced inspections of the Department's facilities. **The Department has measures in place to conduct audits, review audit results, and respond to the duties that would be assigned to the Correctional Ombudsman. Establishing a Correctional Ombudsman in the Office of the Attorney General would result in a duplication and conflict of efforts.**

COMMENTS:

- The Department of Public Safety and Correctional Services' (Department) primary mission is to oversee the Division of Correction (DOC), which houses inmates sentenced to terms of incarceration exceeding 18 months, the Division of Parole and Probation, and the Baltimore City Pretrial Complex.
- The safety, security, and well-being of the incarcerated population is a top priority for the Department. The Department has a multi-layered approach involving numerous offices - both internal and external - to ensure accountability in the treatment of the incarcerated population. **These mechanisms are already established in statute, regulation, policy, and stipulated in contracts as a multi-faceted approach.** SB 512 appears to be based on similar offices in other states that lack the same model and oversight already in existence.
- The Department is already subject to thorough, and routine internal and external audits conducted by the following:
 - Maryland Commission on Correctional Standards (see page 2);
 - American Correctional Association (see page 2);
 - Office of Legislative Audits (see page 3); and, the
 - Office of Performance Evaluation and Government Accountability (see page 3).

- The Department has offices dedicated to investigating, responding to, and correcting areas of noncompliance or concerns involving:
 - Inmate grievances (see “Inmate Grievance Office” on page 3);
 - Criminal and administrative allegations of serious misconduct (see “Intelligence and Investigative Division” on page 3);
 - Management and accountability (see “Office of the Inspector General” on page 3)
 - Adherence to medical treatment contracts (see “Office of Health Contracts Administration and Audits” on page 3)

- **Robust regulations already exist that enable the incarcerated population a mechanism by which they can avail themselves of claims or concerns surrounding conditions of confinement** (see “Administrative Remedy Process” on pages 3-4). The process includes an investigatory process, timeframes for responses, and a right of appeal up to the Office of the Inspector General and onto the Circuit Court.

- **The incarcerated population already has access to legal representation - at no cost to them - on matters concerning conditions of confinement**, sentence calculation, constitutional rights, and claims that affect a serious health, life, or safety concern of an inmate - at no cost to the inmate (see “PRISM” on page 4)

- Maryland Commission on Correctional Standard - The Department is already obligated to comply with auditable standards based on best practices in corrections established by the Maryland Commission on Correctional Standards and the American Correctional Association. The Maryland Commission on Correctional Standards (MCCS) was established by the General Assembly to establish auditable standards for state and local correctional facilities. MCCS staff conduct routine audits of state and local correctional facilities to determine levels of compliance with the established standards, develop audited reports regarding compliance, and provide technical assistance to correct areas of noncompliance. MCCS meetings are held monthly and are open to the public.

- American Correctional Administration - In January 2020, DPSCS signed a Memorandum of Understanding (MOU) with the American Correctional Association (ACA) to accredit all of the Department’s correctional facilities. Accreditation requires adherence to the recently released performance based standards manual, *Performance-Based Standards and Expected Practices for Adult Correctional Institutions* (5th ed.).

- Office of Legislative Audits - The Office of Legislative Audits conducts fiscal and compliance audits of each unit of State government. This includes certain aspects of contract management.

- Office of Performance Evaluation and Government Accountability - The Office conducts performance evaluations of State government agencies and units. Further, the Office may investigate acts or allegations of fraud, waste, or abuse of State resources.

- As previously stated, the Department has additional units/divisions to investigate and respond to area of noncompliance including:
 - Inmate Grievance Office - The Inmate Grievance Office has jurisdiction over all inmate grievance complaints against Departmental officials and employees.

 - Intelligence and Investigative Division - The Intelligence and Investigative Division conducts criminal and administrative investigations into allegations of serious misconduct within the Department.

 - Office of the Inspector General (OIG) - The OIG is responsible for conducting a full range of independent and objective audits; inspections; management analyses; and investigations. The OIG also coordinates DPSCS' legislative audit response process, and provides technical assistance and advisory services to its audit customers. The office's efforts support the Departments' goal of achieving the highest standards of good management, accountability, and professional integrity.

 - Office of Health Contracts Administration and Audits - This office is responsible for monitoring the agency's contracts with its medical and mental health treatment providers.

- State Regulation already provides an Administrative Remedy Process for the incarcerated population. Chapter 12.02.28. of COMAR establishes a process by which an incarcerated individual may seek administrative remedy for conditions of confinement, which includes complaints or concerns regarding:
 - (1) Correctional facility policy and procedures;
 - (2) Medical and mental health services;
 - (3) Access to a court;
 - (4) Religious liberties;
 - (5) Inmate property that is:
 - (a) Lost;
 - (b) Damaged;
 - (c) Stolen;
 - (d) Destroyed; or
 - (e) Confiscated;
 - (6) Complaints against staff;

- (7) Use of force;
- (8) Sentence computation and diminution of confinement;
- (9) Correctional facility conditions affecting inmate;
 - (a) Health;
 - (b) Safety; or
 - (c) Welfare;
- (10) Retaliation for seeking to resolve a complaint through the ARP;
- (11) Management and application of the procedures under this chapter for resolving an inmate complaint;
- (12) Commissary; and
- (13) Inmate telephone system.

- PRISM - The Department has a contract with the Prisoner Rights Information Systems of Maryland (PRISM). PRISM is required to provide legal assistance to individuals incarcerated in state prisons on matters concerning conditions of confinement, sentence calculation, constitutional rights, and claims that affect a serious health, life, or safety concern of an inmate. PRISM must also conduct outreach and educate the incarcerated population of its available resources and access to the courts for these matters.
- The Department's Assistant Attorney General's (AAG) Office is not currently staffed to handle these additional inquiries, due to existing duties such as PIA requests, media requests, and inmate letters that require legal input.

CONCLUSION: The Department of Public Safety and Correctional Services respectfully requests the Committee consider these concerns when deliberating on Senate Bill 512.