



## Department of Public Safety and Correctional Services

### Office of Government & Legislative Affairs

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**BILL: HOUSE BILL 64**

**POSITION: LETTER OF INFORMATION**

**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 investigating any administrative act of the Department, conduct reviews and assessments; receive specific reports and audits; seek criminal charges of an employee or agent of the Department, 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 Pretrial Detention and Services (DPDS), and the Division of Parole and Probation (DPP).
- The safety, security, and well-being of the incarcerated population is a priority for the Department. Meeting this priority involves a multi-layered approach involving various internal and external processes as well as oversight entities.
- Mechanisms to ensure accountability in the treatment of the incarcerated population **are already established in statute, regulation, and policy, as well as being stipulated in contracts.**
- The Department is subject to thorough and routine internal and external audits conducted by the following State and national entities:
  - Maryland Commission on Correctional Standards
  - Office of Legislative Audits;
  - Office of Performance Evaluation and Government Accountability; and the
  - American Correctional Association;

- The Department has offices dedicated to investigating and responding to inmate grievances as well as mechanisms for correcting areas of noncompliance or concerns including:
  - 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); and
  - Adherence to medical treatment contracts (see “Office of Health Contracts Administration and Audits” on page 3)
  
- **The incarcerated population is able to avail themselves of claims or concerns surrounding conditions of confinement** via the “Administrative Remedy Process” (page 4). The process includes an investigatory process, timeframes for responses, and a right of appeal to the Office of the Inspector General as well as the Circuit Court.
  
- **The incarcerated population has access to legal representation - at no cost to them - on matters concerning conditions of confinement**, sentence calculation, constitutional rights, and claims that affect an incarcerated individual’s serious health, life, or safety concern (see “PRISM” on page 4)
  
- Maryland Commission on Correctional Standards (MCCS) - MCCS was established by the General Assembly to establish auditable standards and conduct routine audits for State and local correctional facilities. These audits, which are based on best practices in corrections, determine levels of compliance with the established standards. Audit reports conclude compliance and provide technical assistance to correct areas of noncompliance. The Department has complied with MCCS since it was established.
  
- American Correctional Administration (ACA) - In January 2020, DPSCS signed a Memorandum of Understanding with the 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* (5<sup>th</sup> 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:
  - o Inmate Grievance Office (IGO) - The IGO has jurisdiction over all inmate grievance complaints against Departmental officials and employees.
  - o Intelligence and Investigative Division (IID) - IID conducts criminal and administrative investigations into allegations of serious misconduct within the Department.
  - o 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 the Department's 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.
  - o Office of Health Contracts Administration and Audits - This office is responsible for monitoring the Department's contracts with its medical and mental health treatment providers.
  
- As stated previously, State Regulation already provides an ARP for the incarcerated population. Chapter 12.02.28. of COMAR established 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.

- If the incarcerated individual is not satisfied with the resolution, there is an appeal process in place. The ARP is also subject to audits, which includes examination of:
  - (a) Required files and documents related to the correctional facility's use of the ARP;
  - (b) Documents related to investigations of inmate complaints under this chapter;
  - (c) Actions taken related to implementing remedies resulting from meritorious or meritorious-in-part inmate complaints;
  - (3) Conducting interviews with inmates and staff to assess the effectiveness of the ARP;
  - (4) Interviews with correctional facility staff to determine necessary amendments to the ARP; and
  - (5) An exit interview with the managing official to provide an overview of findings.
- In addition, a correctional facility may be subject to a non-scheduled audit or follow-up audit to determine progress on corrective action.
- 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 mechanisms described above are in place to ensure there is a fair and equitable process for an incarcerated individual to file and resolve complaints and grievances.

**CONCLUSION:** The Department of Public Safety and Correctional Services respectfully requests the Committee consider this information as it deliberates on House Bill 64.