



## TESTIMONY IN SUPPORT OF SENATE BILL 134

**TO:** Members of the Senate Judicial Proceedings Committee

**FROM:** Center for Criminal Justice Reform, University of Baltimore School of Law

**DATE:** February 6, 2024

The University of Baltimore School of Law's Center for Criminal Justice Reform is dedicated to supporting community driven efforts to improve public safety and address the harm and inequities caused by the criminal legal system. The Center strongly supports the creation of independent oversight of Maryland's correctional institutions through Senate Bill 134.

As numerous high-profile incidents and lawsuits against the State of Maryland have made clear, incarcerated people and correctional staff continue to encounter serious threats to their health and safety, including violence and abuse inside institutions. Given that incarcerated individuals and correctional staff too often face retaliation for reporting misconduct that happens within facilities, the harm we know about undoubtedly represents the tip of an iceberg of more widespread systemic challenges. These challenges go beyond threats to physical and emotional safety for incarcerated people, staff and volunteers. Other rights violations, including barriers to adequate medical care and educational, therapeutic and vocational programming, also necessitate enforcement and oversight mechanisms ensuring standards of care are met.

SB 134 would establish a Correctional Ombudsman unit within the Office of the Attorney General empowered to investigate claims made by people behind bars and their loved ones, as well as staff and volunteers. The unit would also conduct investigations of the Department of Public Safety and Corrections' ("DPSCS") administrative acts, perform assessments of critical DPSCS services and report this information to the legislature and public, providing much needed sunlight on critical issues behind the walls.

**External oversight will promote the twin goals of transparency and accountability in Maryland prisons.** An independent, external mechanism is the most effective means of collecting, analyzing, and disseminating information about the conditions of confinement and the treatment of incarcerated individuals. While useful for internal management and administration, internal accountability measures alone are insufficient to address the myriad objectives of correctional oversight. For example, internal accountability measures do not address the needs of public accountability and transparency and fail to ensure systemic legitimacy.

**External oversight of Maryland prisons will advance public safety.** Each year, approximately 4,000 people are released from prisons back into Maryland communities. The trauma and criminogenic effects of incarceration may be amplified by abuse, violence, and inhumane conditions of confinement. Reducing violence, improving conditions of confinement,

and otherwise promoting human dignity behind the walls through external oversight would serve to improve safety both inside institutions and in the communities to which formerly incarcerated people return.

**External oversight is critical to protecting the most vulnerable among us.** SB 134 offers protections for certain vulnerable populations in Maryland’s prisons that are especially at risk of being subjected to rights violations, mistreatment and violence. These vulnerable populations include, for example, people with mental or physical disabilities and individuals placed in disciplinary and administrative segregation.

One example of the urgent need surrounding greater oversight and enforcement mechanisms in Maryland’s institutions are the known inadequate protections for trans incarcerated people. According to data published by the U.S. Department of Justice, Bureau of Justice Statistics, transgender people are nearly ten times more likely to be sexually assaulted than the general prison population, with an estimated 40% of transgender people in state and federal prisons reporting a sexual assault in the previous year.<sup>1</sup> Transgender women housed in men’s prisons are at especially high risk, with one statewide study in California finding that when trans women were automatically housed with men, they were 13 times more likely to be sexually assaulted than male prisoners in the same facilities.<sup>2</sup>

Yet as made clear in the public testimony surrounding the Trans Respect Agency and Dignity Act introduced last year, as well as recent litigation brought by multiple trans individuals surrounding horrific violence endured behind the walls, current processes in place are clearly insufficient to protect all members of this highly vulnerable group. Our Center recently engaged in an analysis of the treatment of incarcerated trans people in response to a recent DPSCS report on the topic, finding that other supposed protections including reporting mechanisms and rights under the Prison Rape Elimination Act remain inadequate and have not been fully implemented. These individuals need additional, independent avenues to sound the alarm and seek support.

SB 134 will take much needed steps forward in protecting those living, working, volunteering, and visiting Maryland’s prisons. For these reasons, we urge a favorable report.

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<sup>1</sup> LGBTQ People Behind Bars: A Guide to Understanding the Issues Facing Transgender Prisoners and their Legal Rights, Natl. Cent. For Transgender Equality (last visited Jan. 18, 2024). <https://transequality.org/sites/default/files/docs/resources/TransgenderPeopleBehindBars.pdf>. Beck, A. J. (2014). Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12: Supplemental Tables: Prevalence of Sexual Victimization Among Transgender Adult Inmates, Bureau of Justice Statistics (2014). [https://www.bjs.gov/content/pub/pdf/svpjri1112\\_st.pdf](https://www.bjs.gov/content/pub/pdf/svpjri1112_st.pdf).

<sup>2</sup> Jenness, V., Maxson, C. L., Matsuda, K. N., & Sumner, J. M. Violence in California Correctional Facilities: An Empirical Examination of Sexual Assault, p. 3. Center for Evidence-Based Corrections. (2009).