

January 2024

Testimony In SUPPORT of HB297/SB134 – Office of the Attorney General – Correctional Ombudsman

My name is Jonathan Sharp, and I was incarcerated in Maryland for five and a half years for assault. During my incarceration, I was mislabeled as a gang member and spent three years advocating to get that designation removed. Several other issues arose, such as money being stolen from my account, receiving infractions meant for other people, and being punitively punished for trying to have a veterans' fundraiser. Having an ombudsman to help resolve these issues and ensure other inmates do not suffer needlessly from these same issues would improve the administration of all institutions in Maryland. Law enforcement and corrections shy away from oversight, but it is necessary in anything with inherent power differences, such as corrections.

Due process is the foundation of our criminal justice system, and this right does not go away once you enter the Department of Public Safety and Correctional Services (DPSCS). Several times during my incarceration, I found myself up against prison administrators and staff who operated under a veil of secrecy with little or no accountability. There is also a risk of retaliation accompanying any administrative action against DPSCS. Not only did I have to learn to navigate the Administrative Remedy Procedure (ARP) process, but without the help of family and advocates on the outside, I would have never been able to successfully remove a Security Threat Group (STG) flag that was placed on me two weeks after arriving at Jessup Correctional Institute (JCI).

There are few choices for the incarcerated. The institution determines who you eat with, who you share a cell with, and when you can go outside. These same actions decide whether you are a member of an STG. Every institution in Maryland has its methods and policies on this. Eastern Correctional Institution (ECI) forces STG members to live together in housing units and cells. I found out I had been designated a gang member when I arrived at ECI in July 2013 and was housed with members of the gang Dead Men Inc. (DMI). Eight months prior, I was working as a contractor with a top-secret security clearance at the Department of Defense and a member of the Glenn Burnie Rotary Club; now, I was explaining to gang members that I was not, in fact, in their gang. The gang members understood the mix-up, but ECI Intel did not. That began a two-and-a-half-year journey to have the STG flag removed. This involved five months on Administrative Segregation (AdSeg), where money was stolen from me; I hired an outside advocate and saw several men get stabbed at ECI because that's how things are when all the gang members live together. I eventually sued the state in Somerset County Circuit Court, filed countless ARPs, and was finally heard by an administrative law judge. The judge's 2015 written opinion has also been entered into the record. It is a scathing rebuke of DOC's practices since they offered zero evidence of why I had been designated a gang member. Within the same year of the written opinion, a stabbing at JCI resulted in everyone who had ever been designated by DPSCS as being associated with the gang Aryan Brotherhood (AB) being sent to AdSeg. My then-recent ruling allowed people who had been suspected of STG associations over 18 years ago to be released after being held for over a month. This was due to DPSCS's policy of removing STG flags after five years of inactivity, a policy that was not being carried out by Intel systemwide. This policy had been revealed during my hearing but was unknown among inmates and likely ignored by prison administrators. While it is an ongoing policy with DPSCS Intel, it was not the institution's practice. Imagine some designation by an employee who has likely already retired from DPSCS, follows you invisibly through the corrections system, and then gets you locked up for 23 hours per day without recourse or relief.

Prison is not supposed to be easy or fun, but it is also not supposed to be full of arbitrary and capricious punishment that is only the result of a poorly run institution or untrained staff. When institutional failures are repeated over the years, those failures are ignored or swept under the rug, and the failures become part of the institution and the de facto policy. A correctional Ombudsman would help prevent this and provide inmates with more timely and substantial relief. I would make three recommendations: **1.** To run a pilot the first year out of a single prison to establish workflow and gauge the workload based on a set population. And **2.** Establish a policy that prevents the administration from shipping people out once the ombudsman is involved. This is frequently done within the system to shuffle “troublemakers” around the system to make it impossible for them to get a resolution. Inmates either lose cause for complaint when moved or must start the ARP process at a new prison. **3.** Create a position staffed by a medical professional solely to deal with medical-related issues. Outsourced medical care in corrections is a cost-saving measure that usually cuts costs by not providing an acceptable level of care to inmates. I ask that you pass this law because it is necessary and proper to do so.