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POSITION ON PROPOSED LEGISLATION

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| BILL: SB 134 | |
| FROM: Maryland Office of the Public Defender | |
| POSITION: Favorable | |
| DATE:03/28/2024 | |

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 134.

Correctional facilities often do not meet their standards of protecting and appropriately serving incarcerated individuals, or the individuals who work there. Complaints from incarcerated individuals vary in terms of intensity, but oftentimes there is not an unbiased arbiter to address the severity or validity of such complaints. Eleven states have already taken the initiative to establish an Office of the Correctional Ombudsman, such as Washington, Texas, California, Florida. Some of the cases that the OCO have resolved in Washington have varied in extremities, one case involved an error regarding an incarcerated person's release date and missing credit for time served stating that "he should have 130 days served from time in jail" and was later resolved by the DOC reinstating 30 days. Another severe case was when a "Complainant contacted OCO about his infractions for using the restroom during count due to a bladder infection. Originally, DOC was unwilling to overturn, stating his medication for his bladder infection was sufficient and he should not have needed ice or extra bathroom time. Complainant subsequently found to have Stage IV prostate cancer". Again, this issue was resolved by the OCO heavily considering the complaint and ensuring that the complainant received cancer care. Furthermore, the OCO had the ability to "look into the diagnosis delay"¹.

Closer to home, though it is not independent, Virginia has also established an Office of the Correctional Ombudsman under the Chief Deputy of the State Inspector General. This OCO is able to perform duties ("conduct[ing] inspections in prisons..."²) which is similar to the ones proposed in SB 134 such as "inspect[ing] any facilities owned or controlled by any agency to monitor conditions in their facilities".³ Although these duties are similar to the ones laid out in SB 134, the independence of the OCO as outlined in SB 134 is incredibly important and we urge its inclusion.

¹Corrections OMBUDS annual report 2019. Carns, J. (2019, November).

<https://oco.wa.gov/sites/default/files/public/Annual%20Report%202019%20Final.pdf>

²Virginia-Office of the Department of Corrections Ombudsman (the "Office"). National Resource Center for Correctional Oversight. (2023, November). <https://prisonoversight.org/oversight-bodies/prison-oversight/virginia/>

³Office of the Correctional Ombudsman - Establishment and Funding. Maryland General Assembly (Senate Bill 134 A,4 page 7). (2024, January). <https://mgaleg.maryland.gov/2024RS/bills/sb/sb0134T.pdf>

Frequently, the concerns and complaints of incarcerated individuals and their families are not taken seriously or with the level of urgency necessary to ensure adequate and humane treatment of incarcerated individuals. By offering oversight that is external to the prison system Maryland can help ensure a broader perspective, more transparency, and adequate care for the incarcerated individuals and their families. The establishment of the Office secures a diverse board in SB 134 that will be made up of people with various backgrounds and specialties to look at the complaints and address their level of severity appropriately. The Office and the establishment of the Board will help reduce potential discrepancies or pitfalls in oversight in Correctional facilities. Specifically, ensuring impacted individuals are part of the Board will help highlight issues that might not seem as serious to those who are not incarcerated or have familiar bonds, such as the expenses of making a phone call while being incarcerated.

An independent, impartial public office such as an OCO would be an appropriate mechanism to address complaints and enact oversight of Correctional facilities that would even extend to the operation of the facility itself. Furthermore, a poll released from Families Against Mandatory Minimums states that “82% of respondents said they believe “that states and the federal government should have a system of independent oversight for their prisons.”⁴ Other aspects of the poll showcase the support of an Office such as the one established in SB 134 to be enacted:

- i. 73% of respondents believe that prisons should be inspected by professionals who are independent of the prison system they are inspecting.
- ii. 68% said they do not trust government agencies to investigate their own problems and honestly report on them to lawmakers and the public.
- iii. Respondents overwhelmingly believe that it is very important for independent oversight bodies to be fully staffed (91%), have authority to investigate complaints from prison staff and prisoners (91%), and have full access to the prison system’s facilities and documents (90%).

By establishing an independent, impartial, and public OCO, Maryland will not only protect its reputation of being a well-wounded and evolved state but will also have a better opportunity to develop a more just justice system. By establishing an independent OCO, SB 134 will give Maryland the opportunity to operate its Correction Facilities to their full capacity by treating the complaints of inmates and workers fairly, and separating the division of labor by having appropriate units and a board under the Office.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill 134.

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

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⁴ 82% of Americans support prison oversight, according to first-ever national poll. Families Against Mandatory Minimums Foundation. (2022, August).

<https://famm.org/82-of-americans-support-prison-oversight-according-to-first-ever-national-poll/>