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POSITION ON PROPOSED LEGISLATION

BILL: HB0297 Office of the Attorney General – Correctional Ombudsman Unit

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 3/5/2024

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 297.

Independent oversight and expanded opportunities to improve and reform current conditions within Maryland's correctional facilities is long overdue. 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 restrictive house, plumbing and sanitation deficiencies, and insufficient heat. The COVID pandemic has added to the urgency of this oversight need as conditions that spread outbreaks and stifle recovery require accountability and response.

Some recent concerns that have been raised to our office, and would have benefited from an ombudsman, include:

- Denial of needed medical care, including lack of access to prescribed medication.
- Aggressive, threatening, and retaliatory behavior by correctional officials;
- Miscommunications causing incarceration beyond the release date;
- Excessive use of lockdown and solitary confinement due to staffing shortages and unreviewed disciplinary matters.
- Lack of heat in the winter, without access to warm clothing, and lack of air conditioning in the summer;
- Lack of accommodations and needed equipment (eyeglasses, wheelchair) for individuals with disabilities;
- Lack of access to feminine hygiene products;

- Unsanitary conditions, including roach and/or rodent infestations, excessive mold, and flooded cells;
- Delays in mail delivery and lack of access to the designated bin for legal mail, resulting in missed filing dates on pro se proceedings;
- Lack of safety measures for transgender individuals.

Our attorneys have long been 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 is similar to the ombudsmen proposed under this bill, 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.

Whether or not housed in the Attorney General's Office, similar independent oversight is needed for adults. 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, disabilities that are not properly accommodated, and other vulnerability factors (LGBTQIA+ status, non-English speaking, etc).

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. 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 House Bill 297.

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

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