

STATEMENT OF
ERIC E. STERLING, J.D.¹
SUBMITTED TO
THE MARYLAND HOUSE OF DELEGATES
JUDICIARY COMMITTEE
HON. LUKE CLIPPINGER, CHAIR
HON. J. SANDY BARTLETT, VICE CHAIR
APRIL 1, 2024

**IN SUPPORT OF
SB 134
Office of the Correctional Ombudsman – Establishment and Funding**

Chair Clippinger, Vice Chair Bartlett, and honorable Delegates, thank you for reading my statement. I strongly support of SB 134 as it unanimously passed the Maryland Senate. I heartily commend Senator Hettleman because SB 134 will be an excellent start.

Why does the correctional system need an ombudsman?

As a general matter, prisons are dangerous and unhealthy. Prisoners are often subjected to acts of violence and other abuse from other prisoners and sometimes from staff. Prisoners often have trouble obtaining adequate medical care, medical examinations, necessary diagnostic tests and medication. Prisoners often have trouble worshipping as they wish. Prisoners often have trouble getting mail, obtaining reading material, and accessing libraries. Prisoners often have trouble doing legal research or retaining or communicating with legal representation. Programs for rehabilitation are frequently hard for prisoners to access. Family members of prisoners often face obstacles in visiting their loved ones. Both prisoners and staff often face retaliation (of many kinds, sometimes involving grievous bodily injury or death) for reporting misconduct, and thus misconduct can become widespread and entrenched. Correctional administrations are notoriously defensive and closed to outside review.

In addition, in the past 15 years, Maryland's state correctional institutions have had at least 5 major criminal scandals:

- In April 2008, 17 correctional officers were fired from two Maryland correctional institutions, charged with assaulting and abusing inmates.
https://www.nytimes.com/2008/04/10/us/10brfs-17CORRECTION_BRF.html
- In April 2013, 13 female guards at the state-run Baltimore City Detention Center were among 25 persons indicted by a federal grand jury for bribery, racketeering, extortion, drug trafficking and money laundering.
<https://www.usatoday.com/story/news/nation/2013/04/23/baltimore-plot-smuggle-contraband-jail/2107523/> Additional indictments were filed, and at least 40 persons had pleaded guilty by Nov. 2017 in this case.
- In October 2016, another 80 persons, including 18 corrections officers, were indicted for similar crimes in Eastern Correctional Institution in Westover.
<https://www.baltimoresun.com/news/crime/bs-md-prison-corruption-20161005-story.html> In that case, according to the Baltimore Sun, prosecutors said, "...Officers [twice] directed inmates to stab other inmates, *once in retaliation for the targeted inmate filing a complaint against the officer.*" (emphasis added). This was the third large-scale federal indictment of widespread corruption and violence in Maryland state-run

correctional institutions in a decade. As of Nov. 2017, more than 60 defendants had pleaded guilty.

- In Nov. 2017, a Jessup Correctional Institution sergeant was indicted for being a leader of the Crips organization in Baltimore; another correctional officer was among the 25 indicted. <https://www.baltimoresun.com/news/crime/bs-md-prison-gang-indictments-20171130-story.html>
- In April 2019, 20 defendants were arrested on federal charges alleging drug trafficking, bribery, contraband smuggling and money laundering in connection with activities at Maryland Correctional Institute, Jessup. <https://news.maryland.gov/dpscs/2019/04/17/20-indicted-in-prison-smuggling-conspiracy/>

What's the best solution?

The best solution is to create a completely independent mechanism of oversight of the correctional system such as that adopted by the State of Washington, the [Office of the Corrections Ombuds](#). An ombuds should:

Be independent of the corrections department, even if it works with it – having independence in law and in “state of mind.”

Have complete access to any facility at any time and the authority to talk to anyone, i.e. “Golden Key” access.

Have a duty to go into the institutions and to report.

Be adequately resourced.

The agency should have an obligation to respond to the Ombuds. The Ombuds does not have a responsibility to fix the problems it identifies. The obligation to fix is that of the correctional agency.

This is a cost-effective solution.

Prisoners and staff are not in opposition in that both groups want safe, well-run institutions. Correctional management is interested in improving the quality of its institutions, reducing deaths, injuries, illness, workplace grievances, and lawsuits. Oversight is not a “gotcha” proposition. Oversight can support agency requests for additional resources. Indeed, an independent oversight body can ask for additional resources more easily than agency management that is part of the administration and constrained by the Governor’s budgetary policy. Golden key access, by keeping staff on its toes, benefits the agency’s ability to supervise and manage the agency. To minimize “post-scandal” investigations, routine inspection is helpful. Independent oversight is not a duplication of any kind of internal affairs or other internal accountability mechanism.

A useful primer on the importance and effectiveness of a correctional ombudsman can be found in the article by Prof. Michelle Deitch of the University of Texas, *Independent Correctional Oversight Mechanisms Across the United States: A 50-State Inventory* (Pace Law Review, 2010). <https://digitalcommons.pace.edu/plr/vol30/iss5/21/> (Accessed Mar. 28, 2024).

I urge a favorable report.

¹ Eric E. Sterling has lived in Maryland 31 years and in the 18th legislative district over 26 years. From 1979 to 1989 he was Assistant Counsel, U.S. House of Representatives Committee on the Judiciary and inspected Federal prisons among many other matters. He was Executive Director of the Criminal Justice Policy Foundation (1989-2020). He was a co-founder in 1990 of FAMM (formerly Families Against Mandatory Minimums) and served on its board of directors for 30 years. He most recently has served on the Advisory Commission on Policing of Montgomery County (2020-2024, Chair 2022-2024).