

February 1, 2022

Re: H.B. 655 – Letter in Support of Establishing Independent Oversight over the Department of Corrections

Dear members of the House Committee on Public Safety:

The Virginia Department of Corrections (VDOC) has an annual budget of \$1.5 billion, employs more than 12,000 individuals, and is responsible for the health and safety of more than 25,000 Virginians in its custody. Yet its operations are largely hidden from public view and scrutiny. Members of the public, journalists, and even elected officials charged with regulating the agency have few if any avenues to get reliable, independent information about the Department's compliance with laws and best practices or its treatment of people in its custody. Instead, the job of monitoring VDOC falls largely to VDOC itself.

But meaningful self-oversight is a lot to ask of any government agency, let alone one that is as large and complex as VDOC. Unsurprisingly, the Department's accounts of its treatment of those in its custody is sharply at odds with those of incarcerated people and their advocates, who routinely accuse VDOC of providing self-serving information and responding to complaints and grievances in ways that are overly dismissive of real concerns, or that appear aimed at denying or evading responsibility rather than acknowledging and solving problems.

H.B. 655 will help establish transparency, accountability, and better stewardship of taxpayer funds through a newly established Office of the Ombudsman, an agency with the authority and responsibility to:

- (1) conduct inspections of VDOC facilities;
- (2) receive and investigate confidential complaints of incarcerated people and staff; and
- (3) report its findings and recommendations to the public and monitor the agency's progress.

The office is modeled after similar oversight bodies in Washington State, Ohio, Pennsylvania, and New York. Critically, this agency will be independent of VDOC. The bill also establishes a corrections oversight committee—comprised of a diverse and bipartisan group of civilians including people who have been impacted by the justice system, as well as healthcare and rehabilitation professionals—that is charged with appointing the Ombudsperson and reviewing and reporting out to the public on their work.



701 E. Franklin Street
Suite 1412
(804) 644-8022
Richmond VA 23219
acluva.org

Mary Bauer (she/her)
Executive Director
Phone: (804) 864-9175
Email: mbauer@acluva.org



701 E. Franklin Street
Suite 1412
(804) 644-8022
Richmond VA 23219
acluva.org

Mary Bauer (she/her)
Executive Director
Phone: (804) 864-9175
Email: mbauer@acluva.org

Last year, this bill gained bipartisan support and reported out of the House of Delegates' public safety committee on a bipartisan 18-2 vote, and ultimately the House's appropriations committee decided to study the costs of such a bill. An independent consultant picked by the Department of Corrections completed their study in December 2021 and concluded that the agency would cost approximately \$3.4 million in its first year, and \$1.6 million annually in subsequent years. That represents 0.1 percent of VDOC's annual budget.

Through its several transparency provisions, H.B. 655 will ensure the public is better informed about the conditions in the Commonwealth's prisons, and that the Virginia General Assembly has the information necessary to carry out their charge of regulating one of the largest agencies in the Commonwealth. Moreover, this bill has the potential to provide significant benefit to VDOC itself, including cost savings and enhanced credibility with the public. An independent oversight office will assist VDOC leadership to better understand where problems are occurring within its sprawling bureaucracy. Likewise, it will help vindicate the Department when it is truly succeeding and when allegations of poor treatment are meritless.

Finally, it will help identify and address any problems early, before they become too costly to fix, or result in expensive litigation. In the first half of 2020 alone, Virginia spent at least \$1 million on legal fees for private counsel to defend just two civil rights lawsuits that—despite the existence of significant barriers to successful federal prisoners' rights lawsuits—recently settled for more than \$100,000 each, in addition to other relief. H.B. 655 will help VDOC become better stewards of the \$1.5 billion in taxpayer funds entrusted to it.

As the General Assembly works to further improve and reform our criminal legal system to be more safe, more just, and more responsive to the needs of all Virginians, it cannot forget the men and women who are serving out their sentences or working within VDOC with little oversight. A government agency that is responsible for the well-being of more than 30,000 people must have transparency. We urge you to support and pass H.B. 655.

Sincerely,

A handwritten signature in blue ink, appearing to read "Vishal Agraharkar".

Vishal Agraharkar
Senior Staff Attorney
ACLU of Virginia