



The General Court of the Commonwealth of Massachusetts
State House, Boston, MA 02133-1053

September 8, 2021

Carol Mici, Commissioner
Massachusetts Department of Correction
50 Maple Street
Milford, MA 01757
Carol.Mici@doc.state.ma.us

Dear Commissioner Mici,

As co-chairs of the Criminal Justice Reform Caucus, we are writing to you because it is our understanding that the Department of Correction (DOC) has entered into a contract with the University of Massachusetts Medical School (UMMS) to establish the Ombudsperson's Office that was enacted in the FY21 and FY22 budgets. We received and acknowledge your September 1, 2021 report regarding the status of the appointment of an ombudsperson. However, we wish to point out in the strongest possible terms that neither the DOC nor UMMS is the appointing authority for the ombudsperson. Per the FY21 budget language found in line item 8900-0001, "provided further, that funds shall be made available from this item for the creation of an independent Ombudsperson's Office for the duration of the state of emergency relative to COVID-19 declared by the governor on March 10, 2020; provided further, that the attorney general, in consultation with the department of public health, shall appoint an ombudsperson to act as director of the Ombudsperson's Office," the Attorney General is the appointing authority. State Senator Sonia Chang-Díaz sponsored this language that became law as part of the FY21 budget, as well as the funding for the Ombudsperson Office in the FY22 budget. The Criminal Justice Reform Caucus supported both budget language provisions related to the Ombudsperson Office. We are collectively concerned about the status of appointing an ombudsperson and want to ensure the law is fully implemented as passed. Given the recent reporting of the conditions in our state prisons, it is critical that this position be appointed by an independent entity, and not the DOC itself.

We are concerned about this proposed course of action because it is antithetical to the intended purpose of the law: to create an independent oversight body that can objectively monitor compliance with the requirements of the law relative to the COVID-19 public health emergency, evaluate the actions taken or not taken by the DOC to ensure the health and safety of individuals within their custody, and to evaluate information related to the DOC's use of mechanisms for release, home confinement or furlough. This office will be essential in establishing public health standards in correctional facilities that are based upon the recommendations of public health experts, both during the present crisis and beyond.

The language of the FY22 budget requires that the ombudsperson be appointed "pursuant to chapter 227 of the acts of 2020." The relevant section of chapter 227 of the acts of 2020 is quoted above. Funds for the office are to be secured through the DOC's line item and the DOC is responsible for submitting a status report to the Legislature on implementation progress. The clear intent of the Legislature and the clear language of the law is that the ombudsperson must be appointed, independently from the DOC, by the Attorney General's Office, in consultation with the Department of Public Health.

It is our understanding that Dr. Monik Jimenez, a highly qualified epidemiologist, has already been vetted by the Attorney General's Office and was forwarded to the Executive Office of Public Safety and Security (EOPSS) for the role of ombudsperson (pending final background check by EOPSS) in March 2021--six months ago. It's unclear to us why the ombudsperson was not appointed months ago when a qualified candidate had already been vetted by the Attorney General's office. The DOC or EOPSS should execute the contract with Dr. Jimenez forthwith and the DOC does not have the legal authority to countermand or undercut this independent appointment.

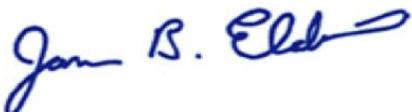
The Legislature established the Attorney General as the appointing authority because a contract facilitated by the DOC will not ensure the independence that this position requires. This provision was carefully considered and overwhelmingly supported by the Massachusetts General Court. Independent oversight is a promise that we made to our constituents, at their very request, and one that we intend to uphold to guarantee proper transparency and accountability.

We appreciate your prompt attention to our concerns.

Sincerely,



Mary S. Keefe, House Co-chair
Criminal Justice Reform Caucus
State Representative
15th Worcester District



James B. Eldridge, Senate Co-chair
Criminal Justice Reform Caucus
State Senator
Middlesex and Worcester District

CC:

Terrence Reidy, Acting Secretary
Executive Office of Public Safety and Security