



Formerly Vermont Protection & Advocacy
(800) 834-7890 (Toll Free)
(802) 229-1355 (Voice)
(802) 229-1359 (Fax)

141 Main Street, Suite # 7, Montpelier, VT 05602

To: House Corrections and Institutions Committee
From: A.J. Ruben, Supervising Attorney
Date: February 23, 2021
Re: DRVT Comments on DOC Committee Bill

Dear Members of the Committee,

Thank you for the invitation to appear before you and testify regarding issues raised by recent news stories and the Downs, Rachlin, Martin (DRM) Report regarding the Vermont Department of Corrections. Disability Rights Vermont (DRVT) is the federally authorized disability protection and advocacy system in Vermont pursuant to 42 U.S.C. 10801 et seq., and the Mental Health Care Ombudsman for the State of Vermont pursuant to 18 V.S. A. §7259. Under these mandates, DRVT is one of the few organizations that has access to people who are incarcerated, and over the last twenty years DRVT has focused substantial resources to providing protection and advocacy services to people with disabilities incarcerated in Vermont. DRVT has worked collaboratively with the DOC to create and implement Americans with Disabilities Act policies and to implement voting access initiatives, as well as having conducted investigations, and at times litigation, regarding the rights of prisoners with disabilities. Through this experience DRVT has a unique and detailed knowledge of many of the issues impacting this population. The following comments are based on this experience and hopefully will assist you in your efforts to improve conditions for all people, and especially people with disabilities, who live and work within the Vermont Department of Correction's sphere of influence.

Section 4 Misconduct Advisory Committee

The Committee Bill supports the DRM recommendation to create an advisory committee of stakeholders to “monitor reporting of sexual misconduct, implement the Department’s anti-retaliation policy, create transparency and implement policies relating to misconduct, and review disciplinary action.” DRVT agrees that the Committee could be an important way for the public to regain confidence in the DOC’s

Defending and Advancing the rights of people with disabilities.

Email at info@DisabilityRightsVT.org,

On the web: www.disabilityrightsvt.org

ability to prevent misconduct previously identified by providing public facing reports about the progress DOC has made in realizing policy goals in this area, and providing advice to DOC on how to make those improvements if the data does not show optimal progress. DRVT suggests that the Committee would be more likely to provide comprehensive, insightful and practical advice and oversight if it were comprised of individuals with lived experience of incarceration, disability, and trauma, as well as professional, independent advocates/investigators who work within correctional facilities, such as the Prisoners' Rights Office or DRVT. Including a stakeholder with experience in disability advocacy is important because of the acknowledged over-representation of people with disabilities as victims of sexual abuse and other misconduct. Additionally, DRVT suggests consideration be given to providing the monitoring committee with authority to promptly obtain personal records, investigative records, medical records, conduct interviews, and obtain outside consultation when necessary, in order to fulfill its important role.

Sections 6 and 7 Special Investigations Unit

The Committee Bill proposes a new Special Investigations Unit (SIU) within DOC to investigate both prisoner and staff misconduct that may be criminal. DRVT agrees that the current process for such investigations is not optimal. However, creating a new level of investigation in between the current "disciplinary report" process for prisoner misconduct, DHR process for staff misconduct allegations, and referral to law enforcement for things potentially criminal, may not be the best solution as it may add more complexity, delay and confusion about roles and responsibilities than it resolves.

DRVT considers the most important tool to assure timely reporting and response to allegations of misconduct is the implementation and maintenance of an effective "hotline" for prisoners and/or staff to call to make complaints. At page 15 of the DRM report the fact that now, only at the Chittenden facility, "hotline" calls go directly to the Vermont State Police for recording and response is positively noted. This best practice should be immediately implemented at ALL VERMONT CORRECTIONAL FACILITIES. The best way to assure that misconduct and retaliation do not occur is to assure that people who are victims of such misconduct have a safe, accessible and confidential way to report it. For too many years that system of reporting has not been effective and now is the time to make these necessary improvements.

An additional safeguard to consider would be implementing a system similar to 18 V.S.A. §7259 (d) that provides for the Vermont Department of Mental Health (DMH) to provide DRVT with copies of use of force reports against patients in DMH's custody

to assure an independent review is conducted. The Committee may consider requiring DOC to provide DRVT with Disciplinary Reports, Incident Reports, and Misconduct Reports regarding staff on prisoner misconduct that involve prisoners with a mental health, intellectual/developmental, Traumatic Brain Injury, or physical impairment known diagnosis. Such a process would help assure the community and those involved that independent, professional scrutiny is being focused on prisoner complaints of abuse and neglect.

Thank you again for your invitation to provide this information and testify before your Committee on these important issues. DRVT remains available to support the Committee's work at your request.