

Committee on Public Safety and Homeland Security

Bill Summary

Bill Number: H2635

Name: An Act creating an independent correctional oversight office to facilitate the recommendations of the Special Legislative Commission on Structural Racism in Correctional Facilities of the Commonwealth.

Sponsor(s): Representative Russell E. Holmes and Erika Uyterhoeven

Hearing Date: June 26th at 1PM in A2

Prior History: Study

Summary:

Section 1: The General Court hereby adopts the following findings of the Special Legislative Commission on Structural Racism in Correctional Facilities of the Commonwealth Final Report:

- Institutional Racism: This includes the systemic policies, procedures, and cultural practices that perpetuate racial inequalities. Notable areas affected are healthcare, education, language services for BIPOC and English Language Learners, cultural programming, employment opportunities, data tracking, and transparency in budgeting and decision-making processes.
- Systemic Racism: Describes how various institutions collaboratively produce racially biased outcomes, even without explicit racist intentions, affecting the entire correctional system's operations and results.
- Interpersonal Racism: Focuses on the direct interactions between members of the correctional community—both staff and incarcerated individuals—that lead to unequal treatment of BIPOC individuals.
- Internalized Racism: Covers the personal and community-held attitudes, beliefs, and prejudices about race that influence behaviors and decisions, contributing to the systemic mistreatment and disadvantages experienced by BIPOC members within the correctional system.

Section 2: Amends Chapter 12A of the General Laws by adding the following:

Section 16. (a) Defining Terms:

1. Administrator: Defined as a person responsible for managing a program, office, division of the department, or the administration of a private agency.
2. BIPOC (Black, Indigenous, and People of Color): Specifies that this term encompasses Black, Indigenous, and People of Color, highlighting the diverse racial and ethnic groups within the correctional community.
3. Correctional community members: Includes both incarcerated individuals and correctional staff who identify as BIPOC, recognizing their specific experiences and challenges within the system.
4. Correctional facility: Describes any location used for the custody, control, and rehabilitation of offenders. This definition explicitly excludes facilities operated by the department of youth services, clarifying the scope of the facilities concerned under this legislation.
5. Department: Refers collectively to the Department of Correction, houses of corrections, and county jails, specifying the various entities involved in correctional administration.
6. Private agency: Defined as any entity that contracts with the department or provides services to another entity under contract with the department, indicating the involvement of third-party organizations in correctional services.
7. Record: Encompasses all forms of recorded information, whether written, audio, electronic, or stored data. This includes a variety of documents such as medical records, mental health records, case files, and financial records, ensuring that all relevant forms of documentation are considered under this legislative framework.

(b) There is hereby established within the office an anti-racism division. The division shall be called the Inclusion, Diversity, Anti-Racism, and Equity Unit, hereinafter referred to as

IDAREU.

(c) (1) outlines the appointment, tenure, and removal processes for the anti-racism corrections inspector general, who serves as the administrative head of the division dedicated to addressing structural racism within the correctional system

(d) (1) outlines the composition of the anti-racism corrections inspector general community council, which is tasked with supporting and overseeing the activities of the anti-racism corrections inspector general. The council is to be composed of 10 members:

- Attorney General or Designee; State Auditor or Designee; Designee of Prisoners' Legal Services of Massachusetts; Two Members Appointed by the Speaker of the

House of Representatives; Two Members Appointed by the President of the Senate; Three Members Appointed by the Black and Latino Caucus

(2) Specifies the composition and operational guidelines for the anti-racism corrections inspector general community council:

- Composition Requirements:
 - At least one member must be an immediate family member of a person currently incarcerated in a department correctional facility.
 - One member must be a family member of someone who was incarcerated in a county correctional facility within the last five years.
 - One member must be a formerly incarcerated person from a department correctional facility within the last five years.
 - One member must be a formerly incarcerated person from a county correctional facility within the last five years.
 - At least five members of the council must have been directly impacted by structural racism.

(3): Appointing authorities are required to ensure that BIPOC populations are well-informed about vacancies on the advisory board, promoting inclusivity and awareness.

(4): Council members will serve for a term of five years. Members will be compensated for their work as determined by the secretary of administration and reimbursed for necessary expenses. The anti-racism corrections inspector general is required to meet with the council at least quarterly to discuss the office's duties and responsibilities and can consult with or request assistance from council members as needed.

(e)(1): The anti-racism corrections inspector general may, subject to appropriation, appoint and may remove such employees, as they deem necessary to perform the duties of their office.

(2) Restricts political involvement for members of the anti-racism corrections inspector general council and employees of the IDAREU. Excluding the attorney general and the state auditor, these individuals are prohibited from holding or running for any elective public office while serving in their roles and for three years after their tenure ends. Additionally, they cannot hold any office in political parties or political committees, nor can they participate in political campaigns for any public office candidates. This rule is designed to ensure their impartiality and dedication to their roles without political conflicts of interest.

(3): The anti-racism inspector general is empowered to seek and receive federal funding, with the approval and cooperation of the inspector general and the anti-racism corrections community council. This provision facilitates the acquisition of necessary resources to support the office's activities and initiatives, enhancing its

capacity to effectively fulfill its responsibilities and commitments to combatting structural racism within the correctional system.

(f) The Inclusion, Diversity, Anti-Racism, and Equity Unit (IDAREU) is charged with dismantling structural racism and ensuring equitable treatment in the Commonwealth's correctional system. It aims to enforce accountability, transparency, and strict compliance with anti-racism standards across daily operations

(g)(1) The anti-racist corrections inspector general may investigate, inspect, examine, review, or otherwise assess any aspect of corrections facilities or systems including but not limited to: canteen, inmate benefit funds and disbursements, searches including cell searches, pat searches, strip or bodily searches; classification; covid-19; educational, vocational and other programming; institutional employment and re-instatement of employments upon discipline; gang designation; staff recruitment, training, supervision, and discipline; food services; inmate funds; and others listed.

(2) The anti-racism corrections inspector general shall review legislation and regulations relating to programs and operations of corrections and shall make recommendations concerning the effect of such legislation or regulation to dismantle structural racism.

(3) The inspector general can use necessary resources (e.g., interviews, surveys, records) without interference to develop anti-racism standards and policies in corrections.

(4) The inspector general must review all correctional records and data systems to create a uniform statewide system that collects racial and demographic data to monitor operations and address structural racism.

(5) The inspector general must independently investigate all complaints of discriminatory treatment against BIPOC individuals in corrections, without relying on existing department or county conclusions.

(6) The inspector general must regularly collaborate with the community council and gather public input, including hosting at least one quarterly public meeting.

(7) The inspector general should coordinate with other state agencies involved in oversight to share information and enhance their efforts.

(8) The inspector general must maintain accessible channels (toll-free/collect phone number, website, mailing address) for receiving complaints and inquiries related to structural racism in corrections.

(9) The inspector general is responsible for informing incarcerated individuals, their representatives, support agencies, families, and correctional staff about the office's roles and functions.

(10) The inspector general may identify and implement ways to management functions can better assist the performs of duties in the office

(h) The office shall be independent of any supervision or control by any executive agency.

(i) The office shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to:

(i) Survey all incarcerated individuals in state and county facilities to gather baseline data on race and other identities for independent analysis.

(ii) Conduct investigations to fulfill the office's anti-racism mission.

(iii) Identify systemic racism issues in corrections that require action from the department and counties.

(iv) Identify systemic racism issues that require action from state-level authorities such as the Governor, Legislature, or Attorney General.

(v) Recommend and help implement statewide minimum anti-racism standards in correctional operations.

(vi & viii) Hire or appoint staff or designees with the same authority as the inspector general to carry out duties.

(vii) Ensure corrections facilities comply with relevant laws and policies regarding the treatment of incarcerated individuals.

(ix & xi) Enter into agreements with individuals or government entities to support the office's duties.

(x) Sign necessary documents to achieve the office's goals.

(xii) Represent the office before government agencies at all levels.

(xiii) Apply for and accept funding or resources from any source to support its work.

(xiv) Pay for expert advice and technical support as needed, including setting payment terms.

(j) The inspector general and their team (including community council members) have the right to enter any facility where prisoners are held and must be granted immediate access.

(k) They may privately and confidentially speak with prisoners and staff without interference—via in-person visits, video, phone, or mail.

(l) The inspector general has the authority to hold public hearings, issue subpoenas, and require sworn testimony from witnesses.

(m) They can refer issues to civil or criminal enforcement agencies if necessary.

(n) If a department or county fails to cooperate or interferes with the office's work, the inspector general can impose penalties such as fines, demotions, or limits on staff interactions with prisoners. Decisions must be made in writing and can be appealed within 90 days. Departments must respond within 30 days; otherwise, their right to appeal is forfeited.

(o)(1) The inspector general has full access to records, documents, and recordings from the department or county—even those typically protected under state law. Departments must help obtain federal release forms if needed.

2) Departments must provide requested materials within 20 days (or 5 days in urgent cases like inmate deaths, threats, or denied medical care), unless granted an extension. Noncompliance can result in fines or sanctions.

(3) Other government agencies (excluding departments or county sheriffs) must provide relevant materials within 20 days upon request, unless an extension is granted.

(4) The inspector general cannot publicly release raw materials obtained from departments/counties but may publish reports and informational tools based on them.

(5) The office must try to minimize disruption to facility operations and comply with security protocols—unless those interfere with the inspector general's duties.

(6) The inspector general can audit, investigate, and report on department and county operations and make recommendations to address structural racism. Final reports will be made public.

(7) Departments must respond within a set time to report recommendations—either detailing actions taken or explaining why they won't comply. They must also provide a timeline and may face sanctions or fines for failing to act.

(8) Final findings will be made public after notifying the relevant department or county. Administrators may review and provide feedback, but reports do **not** need

outside approval. These reports will apply laws and best practices to assess and offer solutions for systemic racism in correctional operations.

(p) (1) Each year by **September 15**, the anti-racism corrections inspector general must electronically submit a summary report to the legislature, governor, attorney general, and community council. This report includes:

- Investigations and reports from the previous year,
- New recommendations,
- Updates on past recommendations, and
- Findings aimed at:
 - Increasing correctional system accountability and oversight,
 - Improving department and county operations,
 - Addressing and deterring structural racism, and
 - Identifying conflicts between laws and office policies.

Confidential or identifying information is excluded.

(2) At the inspector general's discretion, summaries and updates may also be published on the office's website and shared with incarcerated individuals **quarterly**.

(q) Protects whistleblowers from retaliation. No person with authority over incarcerated individuals or correctional employees may:

- **(i)** Punish anyone for disclosing information to the inspector general if they believe it reveals wrongdoing,
- **(ii)** Retaliate for submitting complaints to the inspector general, or
- **(iii)** Retaliate for providing testimony or information during investigations.