

Who do Lawmakers Listen to About West Virginia Jails?

By Sara Whitaker

January 2024

In March 2022, Governor Jim Justice announced that he had directed the Department of Homeland Security (DHS) to investigate Southern Regional Jail (SRJ).¹ In the days leading up to the governor’s announcement, media reports described horrifying conditions at the Raleigh County jail: filthy and broken accommodations, people sleeping on wet floors, violence against incarcerated people that went ignored by jail staff, and people denied water for days at a time.²

A month later, the governor released a report on the DHS investigation, which he summarized in a press release: “Our investigators talked with a bunch of people and pulled a bunch of records and, at the end of the day, they determined that the allegations were *simply not true*.”³

The official story would unravel over the next year and a half, due to the work of reporters, lawyers, people who lived and worked behind bars, and the loved ones of those incarcerated. Today the public knows that the DHS’s unreliable inquiry into SRJ ended two weeks after another state agency investigated and corroborated the March 2022 allegations.⁴ That additional investigation into SRJ was not made public until December 2023. But by then, at least 13 more people had died in that jail’s custody.⁵ SRJ, one of ten regional jails in the state, claimed a staggering 39.4 percent of West Virginia jail deaths during that time.⁶

State lawmakers need not rely on the executive branch to investigate itself.

The legislature has two dedicated committees tasked with keeping lawmakers informed about the conditions in West Virginia jails: the House Committee on Jails and Prisons (“House Committee on Jails”) and the Legislative Oversight Committee on Regional Jail and Correctional Facility Authority (“Legislative Oversight Committee”).⁷

The House Committee on Jails, which convenes during the regular legislative session, heard testimony from three people in 2023 – all were either in leadership or in charge of the Division of Corrections and Rehabilitation (DCR).

Table 1

Appearances Before the House Committee on Jails and Prisons

Types of stakeholders who gave legislative committee testimony during the 2023 regular session⁸

Stakeholder	Appearances
Division of Corrections and Rehabilitation (DCR) Commissioner or Acting Commissioner	2
DCR Administration	1
Formerly Incarcerated Person	0
Incarcerated Person	0
Loved One of an Incarcerated Person	0

The Legislative Oversight Committee is a joint committee of delegates and senators with meetings held during legislative interims. Since April 2022, that committee has held 15 meetings. Only two of the 32 witnesses—or 6.3 percent—who testified to the committee were formerly incarcerated. The committee chose to hear no

testimony from people residing in any of the state’s regional jails. Nor did they hear from the loved ones of incarcerated people.

Table 2

Appearances Before the Legislative Oversight Committee on Regional Jail and Correctional Facility Authority

Types of stakeholders who gave legislative committee testimony since April 2022⁹

Stakeholder	Appearances
Division of Corrections and Rehabilitation (DCR) Commissioner or Acting Commissioner	5*
Department of Homeland Security (DHS) or DCR Administration	7*
Former DCR Commissioner	1
Circuit Judge or Magistrate	3
Prosecutor	4
Public Defender	1
Law Enforcement	1
City or County Officials or Associations	3
Bail Bondsmen	1
Legislative Staff	4
Formerly Incarcerated Person	2
Incarcerated Person	0
Loved One of an Incarcerated Person	0

Instead, the Legislative Oversight Committee heard mostly from people in leadership at the DCR: a total of 12 appearances. The most frequent witness was Brad Douglas, who was fired after a federal judge found that DCR staff had intentionally destroyed evidence related to a lawsuit against the DCR.¹⁰ Mr. Douglas made at least six appearances between April 2022 and April 2023.

The next few months will provide an opportunity for lawmakers to do what the governor has not yet done: conduct a truly thorough and credible investigation of West Virginia’s jails crisis.

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¹ Annie Moore, “Governor Calls for Formal Investigation into Conditions at Southern Regional Jail,” Wdvt.com, March 30, 2022, <https://www.wdvt.com/2022/03/30/exclusive-governor-calls-formal-investigation-into-conditions-southern-regional-jail/>.

² Annie Moore, “Girlfriend of Inmate Complains of Overcrowded Conditions at SRJ after Death of Inmate,” Wdvt.com, March 22, 2022, <https://www.wdvt.com/2022/03/22/girlfriend-inmate-complains-overcrowded-conditions-srj-after-death-inmate/>; Annie Moore, “Southern Regional Jail Guard Confirms Inmates Going Days Without Water,” Wdvt.com, March 25, 2022, <https://www.wvva.com/2022/03/25/southern-regional-jail-guard-confirms-inmates-going-days-without-water/>; Annie Moore,

“Second Guard Backs Up Claim Inmates Being Denied Water at Southern Regional Jail,” Wdvt.com, March 29, 2022, <https://www.wvva.com/2022/03/29/second-guard-backs-up-claim-inmates-being-denied-water-southern-regional-jail/>.

³ Office of the Governor, “Gov. Justice Releases Results of DHS Investigation into Conditions at Southern Regional Jail,” April 28, 2022, <https://governor.wv.gov/News/press-releases/2022/Pages/Governor-Justice-releases-results-of-DHS-investigation-into-conditions-at-Southern-Regional-Jail.aspx> (emphasis added).

⁴ Henry Culvyhouse, “As People Died at the Southern Regional Jail, Court and Internal Records Highlight Issues with a Justice Administration Investigation,” *Mountain State Spotlight*, August 29, 2023, <https://mountainstatespotlight.org/2023/08/29/southern-regional-jail-deaths-wv/>; Henry Culvyhouse and La Shawn Pagán, “An Internal Report Found Decrepit Conditions at Southern Regional Jail. Two weeks later, Gov. Justice Said Everything Was Fine,” *Mountain State Spotlight*, December 20, 2023, <https://mountainstatespotlight.org/2023/12/20/iim-justice-southern-regional-jail-investigation/>.

⁵ “RE: FOIA Request for WVDCR deaths in custody 01/01/2020 to present,” letter from Sarah F. Daugherty to Sara Whitaker, September 26, 2023, available here: <https://wvpolicy.org/wp-content/uploads/2023/10/2023.09.26-DCR-FOIA-Response.pdf>; “RE: FOIA Request for adult inmate count for 11/01/2023 and log of deaths in custody,” letter from *On behalf of the Commissioner* to Sara Whitaker, November 9, 2023, available here: <https://wvpolicy.org/wp-content/uploads/2023/12/FOIA-DCR-Response-2023.11.09.pdf>; “Sara FOIA Request adult inmate count 12-01-2023 & deaths,” emailed from Sarah F. Daugherty to Sara Whitaker, December 18, 2023, available here: <https://wvpolicy.org/wp-content/uploads/2023/12/FOIA-DCR-Response-2023.12.18.pdf>; Ed Pilkington, “Families of 14 Inmates Who Died in West Virginia Jail Allege Negligence,” *The Guardian*, March 19, 2023, <https://www.theguardian.com/us-news/2023/mar/19/west-virginia-southern-regional-jail-inmates-families-federal-investigation>; Jeff Jenkins, “Southern Regional Jail Inmate Pronounced Dead After Being Found Unresponsive,” *West Virginia MetroNews*, December 22, 2023, <https://wvmetronews.com/2023/12/22/southern-regional-jail-inmate-pronounced-dead-after-being-found-unresponsive/>.

⁶ WVDCR analysis of death in custody data provided by DCR and media reports cited above.

⁷ “Committee on Jails and Prisons,” West Virginia Legislature, <https://www.wvlegislature.gov/committees/house/HouseCommittee.cfm?Chart=jls>; “Legislative Oversight Committee on Regional Jail and Correctional Facility Authority – Interim,” West Virginia Legislature, <https://www.wvlegislature.gov/committees/interims/committee.cfm?abb=RJCFA>.

⁸ **Table 1:** Appearances determined through the following hyperlinked committee agendas: [January 19, 2023](#): Acting Commissioner of DOC Brad Douglas; [January 26, 2023](#): No appearances noted; [February 2, 2023](#): Brad Douglas - Chief of Staff, DOCR; Bill Marshall – Commissioner; [February 16, 2023](#): No appearances noted.

⁹ **Table 2:** Appearances determined through the following hyperlinked committee agendas and news coverage: [April 26, 2022](#): “WV DCR”; [May 22, 2022](#): David Price, County Commissioner, Preston County; Jimmy Riffle, Marion County Sheriff; Brad Douglas, Chief of Staff, Division of Corrections and Rehabilitation; [June 13, 2022](#): Tom Joyce, Mayor, City of Parkersburg; Susan Economou, Deputy Executive Director, West Virginia Municipal League; Brad Douglas, Chief of Staff, Division of Corrections and Rehabilitation; Catie Wilkes Delligatti, Berkeley County Prosecuting Attorney, West Virginia Sentencing Commission; Melissa Rose, [formerly incarcerated person](#); Ashley Omps, [formerly incarcerated person](#); [July 26, 2022](#): Brad Douglas, DCR Chief of Staff; [September 13, 2022](#): William Valentino, Staff Counsel; [November 15, 2022](#): William Valentino, Staff Counsel; [December 6, 2022](#): Brad Douglas, Acting Commissioner, Division of Corrections and Rehabilitation; [January 10, 2023](#): Will Valentino, House Judiciary Chief Counsel; Brad Douglas, Acting Commissioner of WV DCR; [April 16, 2023](#): Brad Douglas, Executive Officer, Division of Corrections and Rehabilitation; William Marshall, Commissioner, Division of Corrections and Rehabilitation; Carl Fletcher, Staff Counsel; [May 9, 2023](#): The Honorable Judge Gregory Howard, Sixth Circuit; Sean K. Hammers, Prosecuting Attorney, Cabell County; [August 6, 2023](#): Paul Simmons, Deputy Commissioner - Division of Corrections; [September 11, 2023](#): Hon. Maryclaire Akers, Circuit Judge, Kanawha County; Hon. Joseph L. Mendez, Magistrate, Logan County; Luke Furbee, Tyler County Prosecuting Attorney; President, Prosecuting Attorney's Association; Ronni Sheets, Kanawha County Public Defender; Tommy Weatherholtz, Weatherholtz Bail Bonding; [October 16, 2023](#): William Marshall, Commissioner, Division of Corrections and Rehabilitation; [November 14, 2023](#): Betsy Jividen, Former United States Attorney for the Northern District of West Virginia and former Commissioner of the Division of Corrections and Rehabilitation, also representing Uplift West Virginia; Randy Bernard, First Assistant United States Attorney, Northern District of West Virginia; [December 12, 2023](#): Mark Sorsaia, Secretary, WV Department of Homeland Security; William Marshall, Commissioner, WV Division of Corrections and Rehabilitation.

¹⁰ Brad McElhinny, “Administration Says Two Top Employees in Missing Documents Fiasco Have Been Fired,” *MetroNews*, November 1, 2023, <https://wvmetronews.com/2023/11/01/administration-again-says-evidence-in-federal-jails-case-wasnt-intentionally-destroyed/>; Order and Proposed Findings and Recommendation, Document 774, *Michael D. Rose, et al. vs. Jeff S. Sandy, et al.*, Case No. 5:22-cv-00405, October 30, 2023, available here: <https://wvmetronews.com/2023/11/01/administration-again-says-evidence-in-federal-jails-case-wasnt-intentionally-destroyed/>; Mike Tony, “Dereliction of Duty: Judge Finds WV Corrections Leaders Intentionally Destroyed Evidence,” *Charleston Gazette-Mail*, October 31, 2023, https://www.wvgazette.com/news/politics/dereliction-of-duty-judge-finds-wv-corrections-leaders-intentionally-destroyed-evidence/article_69e89c36-ce19-5714-bfb5-2b05140c45de.html.