

**Testimony in Support of Senate Bill 87 (Favorable)
Correctional Ombudsman**

To: William C. Smith, Jr., Chair, and Members of the Senate Judiciary Committee

From: Elizabeth Loh & Anna Manogue, Student Attorneys, Youth, Education and Justice Clinic
(admitted to practice pursuant to Rule 19-220 of the Maryland Rules Governing
Admission to the Bar)

Date: February 7, 2023

We are student attorneys in the Youth, Education and Justice Clinic (“the Clinic”) at the University of Maryland Francis King Carey School of Law. The Clinic represents individuals serving life sentences in the Maryland correctional system for crimes they committed as children or emerging adults. The Clinic writes in support of Senate Bill 87 (“SB 87”), which seeks to develop an independent monitoring agency, a Correctional Ombudsman’s Office, to investigate complaints within Maryland prisons.

The Correctional Ombudsman would play a critical role in ensuring and enhancing the integrity of Maryland’s prisons. Specifically, the Ombudsman would monitor state prisons and streamline oversight critical to accountability and transparency. The Ombudsman would have the authority to monitor prisons, publish public reports, review every complaint filed with the correctional standards commission, and work with a community advisory board to address community concerns.

The Clinic represents clients who have lived in Maryland’s prisons for the decades after they were sentenced for crimes they committed as children and emerging adults (individuals who are between eighteen and twenty-five years of age). Over the years, we have confronted myriad difficulties addressing our clients’ concerns about access to healthcare, sanitation, and basic services. Because prisons operate beyond our view, incarcerated persons are uniquely vulnerable to mistreatment.¹ Abuses in Maryland’s prisons are well-documented and ongoing.² These abuses include denial of medication to terminally ill patients and unexplained delays in the grievance process designed to allow incarcerated persons to flag issues to prison staff.³

¹ Michele Dietch, *But Who Oversees the Overseers?: The Status of Prison and Jail Oversight in the United States*, 47 AM. J. CRIM. L. 207, 218 (2021). See generally, Lauren Brooke-Eisen & Alia Nahra, *The Landscape of Recent State and County Correctional Oversight Efforts*, BRENNAN CENTER FOR JUSTICE (Mar. 15, 2022), <https://www.brennancenter.org/our-work/research-reports/landscape-recent-state-and-county-correctional-oversight-efforts>.

² E.g., MD. FOOD PRISON ABOLITION PROJECT, “I REFUSE TO LET THEM KILL ME” FOOD, VIOLENCE, AND THE MARYLAND CORRECTIONAL FOOD SYSTEM 23-33 (2021) (describing poor nutrition, inhumane meals, and insufficient quantities of food in Maryland’s prisons), <https://static1.squarespace.com/static/5cfbd4669f33530001eeeb1e/t/614a994382003d4b88ba44d9/1632278867753/Food%2C+Violence%2C+and+the+Maryland+Correctional+Food+System+%E2%80%94+Full+Report.pdf>.

³ *Office of the Attorney General- Correctional Ombudsman: Hearing on H.B. 64 Before the S. Comm. on the Judiciary*, 2023 Leg., 445th Sess. (Md. 2023) (statement of Lila Meadows).

Currently, the primary way for incarcerated individuals to file complaints regarding abuses, denial of medical care, or lack of services is through a months-long grievance process. Prison staff are responsible for the grievance process, which means that prison personnel monitor themselves. Prison personnel often investigate their colleagues, which calls into question the objectivity and integrity of the grievance process. This process exposes incarcerated individuals to retaliation from staff named in a grievance. It can also span months,⁴ making it ineffective in many instances. SB 87 would allow incarcerated persons to contact the Correctional Ombudsman Office by letter, through an in-person visit, or via a community oversight board. In addition, the Correctional Ombudsman would expedite complaints through independent and impartial investigation. Thus, SB 87 would remove delay, bias, and the threat of retaliation from the grievance process, and better ensure the basic services to which incarcerated individuals are entitled or otherwise deserve.

Independent oversight is proven to work in Maryland. In 2002, Maryland established the Juvenile Justice Monitoring Unit, which provides independent oversight of Maryland's juvenile justice system.⁵ The Juvenile Justice Monitoring Unit has published eight reports that have led to improved youth safety and physical and mental health.⁶ Like the Juvenile Justice Monitoring Unit, the Ombudsman would operate as an independent agency in the Office of the Attorney General. The Ombudsman's authority to conduct unannounced visits, interview incarcerated individuals, and publish reports would increase transparency by detailing conditions within Maryland's prisons. These reports would not only improve Maryland's prisons, but also would give Maryland taxpayers insight into the prisons they fund.

The nearly 18,000 people incarcerated in Maryland's prisons deserve an independent entity that ensures they receive the programming, healthcare, and living environment that dignity requires and that the state promises. The General Assembly and Maryland's taxpayers need insight into a prison system with a FY 2022 budget of \$828 million.⁷

Individuals incarcerated in Maryland deserve treatment that comports with our state and federal constitutions, as well as basic notions of dignity and humanity. The State should provide an effective, efficient, and transparent pathway for incarcerated individuals to raise their concerns. SB 87 provides the independent oversight critical to such pathways. For these reasons, we ask for a favorable report on SB 87.

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law and not on behalf of the School of Law or the University of Maryland, Baltimore.

⁴ See Dep't of Pub. Safety & Corr. Servs., Div. of Pretrial Detention & Servs., Direction Number 180-1.06 (C), (G)-(I), <https://itcd.dpscs.state.md.us/PIA/ShowFile.aspx?fileID=990> (setting forth submitted grievances and appealing grievances decisions).

⁵ *Juvenile Justice Monitoring Unit*, MARYLAND OFFICE OF THE ATTORNEY GENERAL, <https://www.marylandattorneygeneral.gov/pages/jjm/default.aspx> (last visited Feb. 5, 2023).

⁶ *Id.*

⁷ Maryland Dep't of Pub. Safety & Corr. Servs., Q00B CORRECTIONS 13 (2022), <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2022fy-budget-docs-operating-Q00B-DPSCS-Corrections.pdf>.