

Support SB 809 – Correctional Ombudsman Act

MARYLAND ALLIANCE FOR JUSTICE REFORM
Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Will Smith and Senate Judicial Proceedings Committee
FROM: Phil Caroom, MAJR Executive Committee
DATE: March 9, 2021

Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) strongly supports SB 809 to create an independent Correctional Ombudsman office which could bring light, recommendations and expedite solutions for a wide range of long-standing problems experienced in Maryland prisons.

How would ombudsman offices improve, and not duplicate, Md. prisons oversight? : An ombudsman office would be independent, not under direct control of Correctional administrators. With unannounced inspections, “whistle-blower” protection, alternate dispute resolution (ADR), independent public reporting and recommendations, an ombudsman office would improve functioning of Maryland prisons because:

- Correctional Standards Commission provides only pre-scheduled inspections by colleagues and would receive results of Ombudsman’s unannounced inspections;
- DPSCS Inspector General prosecutions would receive information from ombudsman investigations in addition to traditional sources and has advised MAJR it sees no duplication of functions;
- DPSCS administrators, constrained by political concerns to “put the best face” on problems in their press releases, would have their many resource needs more fully articulated and publicized; and
- DPSCS Administrative Remedy Procedure (ARP) and Inmate Grievance Office (IGO), today, offer an extremely bureaucratic process in which prisoners make initial complaints to the same correctional officers who often are the subjects of the complaints. Then, if dissatisfied, prisoner face four-levels of adversarial review -- three of which involve costly attorneys & judicial officers. An ombudsman would provide a neutral mediator who could offer possible resolutions at the earliest level(s) and would assess chronic problems in the system.

What’s the problem?: Maryland prisons, today, confront management problems that emerge from political pressures, budget cuts, and inconsistencies between centralized control and decentralized fiefdoms of wardens and correctional administrators. Full disclosure is prevented by political / public relations concerns and bureaucratic defensiveness. Resultant problems and ombudsman solutions include:

SYSTEMIC PROBLEMS

OMBUDSMAN SOLUTIONS

1)Smuggling of contraband and abuse of prisoners by rogue correctional officers- News reports indicate approximately 50 Md. DPSCS correctional officers in six state prisons indicted in the past 12 years. Division of Corrections’ most common response has blamed and restricted prisoners’ family visitation.

– Confidential reports as to correctional officers’ corruption would become easier with ombudsman statute preventing whistle-blower reprisal against inmates and conscientious colleagues. **Compare Baltimore Sun, 4/16/19 report as to “Prison Smuggling” indictments that resulted from a prisoner’s tip.**

2)Prisoner healthcare & substance abuse concerns – This is the single most common use by sister states’ programs and a huge expense for Maryland prisons.

-- Notably, active substance abuse within Maryland prisons is untreated in the majority of those suffering and treated in only a small minority of prisoners. **See testimony of Anita Weist.**

(continued on p.2)

Ombudsmen's careful study of medical records in other states has helped to triangulate, identify problems and permit more efficient management. For example, the **N.J. Corrections Ombudsman office reports that it has "greatly reduced" the number of lawsuits filed against its state's prisons.** That office also is tasked with monitoring statutorily restricted use of solitary confinement. **Other states have identified particular prison health care offices that create the majority of problems.**

3)Disregard by DPSCS correctional officers of COVID-19 rules over a number of months – Early reports by Md. prisoners, families & advocates have been ignored until statistics show alarming outbreaks, such as that at Eastern Correctional Institute where 63 new cases were reported in a single week on 11/18/20.

-An independent ombuds might carry more credibility and, thus, result in quicker responses. **In Nebraska's correctional ombuds-equivalent Inspector-General's office (OIG), OIG engaged in almost daily communications with corrections administrators until changes were implemented.**

4)Inadequate education, vocational, peer mentoring, and counseling services-While DPSCS webpages cherry-pick minimal facts as to educational and vocational accomplishments, these lack proper context.

- Even the most effective and cost-efficient behavioral management programs, such as "Thinking for a Change" using peer mentors, have been cut. GEDs, job-training, and drug treatment numbers all have dropped in recent years. Such programs, as well as education and vocational training, both reduce prison security problems and prisoners' recidivism upon release. An ombudsman report would offer the "big picture" and full context as to how cuts have hurt prison's effectiveness. **See testimony of former ECI warden - Kathleen Green.**

5)Overly-harsh sanctions bans of prison volunteers and family members despite inadequate notice of rules- Over many years, volunteers and family members report years-long "banning" from Md. prisons for minimal violations of wardens' little-publicized rules against "social contact" with inmates like sending a birthday card or a reminder of upcoming classes within the prisons.

See, e.g., testimony of Mary Joel Davis – being banned 6 months for sending a reminder postcard after years of volunteer work with prisoners' group-counseling. An entire group of volunteers was banned 2 years for signing a birthday card to a prisoner. Also, see testimony of Lea Green, president of Maryland C.U.R.E. - and mother of a "lifer," banned 5 years for a brief greeting to another prisoner in a hallway. An Ombudsman report and recommendation could help standardize volunteer/visitor rules and minimize sanctions that, today, prevent rehabilitative contact with the community outside the prisons.

Will this work?: Maryland's successful Juvenile Justice Monitor Unit (JJMU) has operated since 2006 as an independent ombudsman-like program for our State's 7 juvenile (temporary) detention and 4 committed (longterm) placement units. It offers an excellent model for how cooperation rather than duplication and for prevention rather than crisis-response. **See testimony of Nick Morony, JJMU director.**

Eight states sister and large counties in eight more states all have adopted correctional ombudsman or similar systems with different names. (See "***But Who Oversees The Overseers?: The Status Of Prison And Jail Oversight In The United States,***" Prof. Michele Deitch, American Journal of Criminal Law - pending 2021 publication.)

With his 10/10/19 proclamation, Governor Larry Hogan joined a national trend of support for ombudsmen as an alternate dispute resolution (ADR) system to provide an "essential supplement" and "powerful risk management" for government and other organizations. Organizations specifically endorsing and promoting correctional ombudsman use include the American Bar Association and the U.S. Ombudsman Association

Conclusion: Phased in with a first-year pilot plan focused on Jessup institutions and system-wide gaps in services (education, job-training, drug-treatment, peer-counseling), SB 809 could help to make big improvements in Maryland prisons at comparatively small costs. Please give a favorable report to this important bill!

PLEASE NOTE: Phil Caroom files this testimony for MAJR and not for the Md. Judiciary.