

March 5, 2021

TO: Chairman Will Smith and Members, Sen. Judicial Proceedings Com.  
FROM: Robert J. Rhudy, Member, Executive Committee, Maryland Alliance for Justice Reform (MAJR)  
RE: Support for Senate Bill 0809 - Attorney General—Correctional Ombudsman

Dear Chairman Smith and Members,

I participated for several months during 2020 in a working group of Maryland Alliance for Justice Reform (MAJR)—professionals trained in law, psychiatry and social work—who studied the operation of correctional ombudsman programs across the country, including fairly recent such programs in Hawaii and Washington. We also learned that several other states are currently considering such programs to assist in reviewing and resolving conflicts involving persons in their correctional facilities--inmates, staff, as well as family or others seeking to interact with the incarcerated population--in cost-effective, efficient, and productive manners.

I understand that other of my MAJR colleagues will be providing testimony in support of this legislation, and I do not seek to duplicate their testimony. I do have some other personal experiences that may be of some value for your consideration.

After graduating from University of Iowa Law School in 1973, I practiced law in Des Moines during 1975-1978. Much of my legal practice involved providing legislative advocacy for state agencies and nonprofit organizations before the Iowa General Assembly based on some of my prior experience, but I also did some criminal representation and served as president of the Iowa Civil Liberties Union. I became very familiar with the Iowa Ombudsman Office, created around 1972 and one of the earliest in the United States. It was an independent agency, created by state statute, with a director (the “Iowa Ombudsman”) who was hired by the Iowa General Assembly. The office had ombuds responsibilities at that time for five state agencies, including the departments of corrections, health, and social services (and two others I do not recall). The Ombudsman hired and managed five assistant ombudsmen with responsibility for each of these agencies, along with an administrative staff. If the ombudsman office determined that the policy or practice of an agency was causing a recurring problem and recommended a change that was ignored, the ombudsmen would take its recommendation to the governor, and if still ignored, it would report the matter to the General Assembly perhaps along with corrective legislation. Because of my limited criminal practice and Iowa Civil Liberties Union service, I had primary contact with the ombudsman work on corrections matters, enjoyed my relationship in that area, and found that it had a very favorable reputation even early in its existence. I talked with the

Iowa Ombudsman and assistant ombudsman for corrections this past year and it continues to maintain a very active caseload with what sounds like a good rate of resolution. It now seems to have responsibilities for all state agencies (but not the office of the governor, general assembly, or courts), but also complaints involving local governments.

In a December 28, 2020 press release briefly summarizing the year's work, the Iowa Ombudsman Kristie Hirschman stated:

“The Ombudsman is a good-government office that accepts complaints from citizens who believe that a state or local government agency has acted unfairly, unreasonably, inefficiently, or contrary to law, rule, or policy. The Ombudsman has the authority to investigate complaints, but more often tries to resolve disagreements or misunderstandings informally and cooperatively.”

I returned to my birth state of Maryland in November 1978, when I was hired to create and manage a new branch office of the Legal Aid Bureau in Cumberland, serving Allegany, Garrett, and Washington Counties. LAB, now Maryland Legal Aid, was and remains our primary statewide program providing legal assistance to low-income persons in civil matters. Primarily funded at that time with federal grants from the U.S. Legal Services Corporation, which budget expanded substantially during Jimmy Carter's presidency from \$70 million in 1976 to \$321 million in 1980, LAB opened several new offices in Maryland during 1977-1980. I and other attorneys in the Western Maryland office provided legal assistance to persons incarcerated at Maryland Correctional Institution-Hagerstown regarding complaints within the prison as well as external matters such as divorce and estate distribution. After my favorable experiences in Iowa, I missed having an ombudsman program that I could confidently refer many of the inside-the-walls conflicts for review and possible resolution. (Note: Because of restrictions enacted by Congress in 1996 to any program receiving Legal Services Corporation funding, Maryland Legal Aid was prohibited thereafter from providing legal assistance to persons in prison.)

My work for Legal Aid also included serving as legislative advocate on matters concerning the needs of our low-income client population before the Maryland General Assembly, and to our state's members of the U.S. Congress following the election of President Ronald Reagan in 1980 when he undertook the elimination of the U.S. Legal Services Corporation. In April 1983 I was hired as executive director of the Coalition for Legal Services, Washington, D.C. which was responsible for coordinating the grassroots support to Congress for continuation of the U.S. Legal Services Corporation

and federal funding for civil legal aid. By 1985 we had succeeded in defeating the Reagan administration's efforts to eliminate LSC or further reduce funding. We closed the Coalition, and in April 1986 I became executive director of the Maryland Legal Services Corporation, which is the entity created by Maryland statute in 1982 to administer state-created funding sources for grants to our civil legal aid programs. I continued in this position until late 2003, during which time our funding grew from \$1,000,000 to \$15,000,000 annually, allowing the number of persons receiving civil legal aid to very substantially expand.

In 1998 I was appointed by then-Maryland Court of Appeals Chief Judge Robert Bell to serve on a mediation work group he created to determine how to expand the use of mediation and related conflict resolution approaches in our state by courts, state agencies, schools, businesses, and other entities. I began my mediation training shortly after I began serving on this work group. As one of our recommendations, the Judiciary created the Mediation and Conflict Resolution Office (MACRO) within the Judiciary to help direct the development and expansion of conflict resolution services, and the Judiciary provided funding for such activities. I was asked to serve as chair of MACRO's grant committee which reviewed proposals from courts, state and local agencies, community mediation programs, and other nonprofit organizations. I served in this role until early 2004, shortly after I left Maryland Legal Services Corporation.

Since 2004, much of my professional practice has been a combination of providing legal counsel, consulting to legal aid and other public and nonprofit organizations around the United States and other countries, and providing mediation training, services, and related consulting. The mediation services is what most relates to the correctional ombudsman program before your consideration, and why I believe this new program would well serve our state's needs in the correctional arena.

In late 2004 I developed a grant proposal for consideration by the Maryland Department on Aging (DOA) to develop and operate a model senior mediation program to assist older persons with a range of conflicts. DOA submitted the proposal to MACRO, which was approved, and I was hired as an independent part-time consultant to implement the program. We worked with national resources, did strategic planning, conducted workshops and trainings, and rendered mediation services in a wide range of matters, including court-ordered mediations in contested guardianship matters. This program quickly became the leading such entity in the United States. By 2007 DOA no longer felt the need to oversee the funding or program, and at its urging I created a nonprofit entity, Senior Mediation and Decision-Making, Inc. which continued to receive MACRO support and maintained our services, which expanded to include workshops and trainings around the United States and in Canada. The MACRO funding was

discontinued by 2010 after I had undertaken another mediation full-time responsibility (below) that did not allow my attention to senior mediation for three years

In September 2009 I was hired by then-Court of Special Appeals Chief Judge Peter Krauser to develop and direct a new appellate mediation program within that court. In accord with Chief Judge Krauser's lead, all cases would be co-mediated by a lawyer mediator and a retired judge mediator. Twenty-one retired judges from the circuit courts, Court of Special Appeals, and Court of Appeals, nearly all of whom had prior mediation training and some mediation experience, had been selected for this program, and I hired two additional attorney mediators to join with me as co-mediators. By approximately April 2010 regulations that I had developed for the new appellate mediation program had been adopted by the Court of Special Appeals and Court of Appeals, we developed and provided special training for all mediators, and we began selecting cases and providing mediations in a nearly comprehensive range of civil cases that were under appeal to CSA. The program is now a permanent part of the court and one of the most successful such appellate mediation programs in the United States.

I left the program in January 2012 and returned to a Baltimore-based private practice of a mix of providing legal counsel and representation, consulting, doing trainings and mediating. My training activity has primarily been on elder mediation, including several 2 1/2 to 3 day trainings for the Maryland Judiciary and one for the Association of Attorney Mediators in Chicago, IL plus numerous workshops at conferences around the country. My professional mediation practice is primarily in senior matters, while I also am involved in providing pro bono mediation assistance in my multi-state faith community.

I share this mediation experience because the ombuds service is a specialized form of conflict resolution that includes mediation and other related activities which I believe will provide more efficient, less expensive, and better reviews and resolutions in a range of conflicts within our correctional programs. I also believe, like mediation generally, it can provide more harmonious interactions than other conflict approaches, such as litigation which may result in the absence of the ombudsman service.

I hope that you will support this bill. Thank you for your consideration.