

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



Testimony In SUPPORT of SB 0087 – Office of the Attorney General – Correctional Ombudsman Before the Senate Judicial Proceedings February 8, 2023

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Transparency and accountability are hallmark to the efficient operation of many forms of government systems. The daily administration and operation of our corrections facilities should be no different and the walls built to keep detainees confined should not also be used to keep constituents and government officials out. There are several reasons why The Maryland Alliance for Justice Reform has proposed and SUPPORTS this bill establishing of the Correctional Ombudsman Office.

As a volunteer, I chair the Behind the Walls Workgroup for MAJR and we receive numerous correspondences from individuals detained in Maryland's prisons sharing personal experiences and complaints about critical problems such as the lack of proper medical care; limited or no access to mental health services; the abrupt disruption of rehabilitation programs and educational services; and the overuse of solitary confinement. All of these issues should be addressed urgently before they balloon and become systemic issues. Having been involved in prison litigation for years, I am keenly aware that class action lawsuits and even individual prison litigation can be costly and time consuming. The Prison Litigation Reform Act (PLRA) has made litigation even more challenging for prisoners to pursue.¹ Even before an individual considers filing litigation they must first exhaust their administrative remedies. The Administrative Remedy Procedures are spelled out in COMAR 12.02.28.1 However, many individuals behind bars repeatedly experience that the ARP process is ineffective and their written grievances are discarded and rarely resolve issues. If the APR coordinator is out on leave their complaints go unresolved, or they get dismissed at the first stage for procedural reasons. Many of the men and women fear retribution because the staff member being complained about is often the person who the written grievance must go through to

¹ The Prison Litigation Reform Act (PLRA), 42 U.S.C. Section 1997e, was passed in Congress in 1996, makes it harder for prisoners to file lawsuits in federal courts. The Act requires courts to dismiss civil right cases for minor technical reasons before reaching the merits of the case, requires the payment of filing fees, caps attorneys fees and requires exhaustion and that individuals prove unlawfully inflicted physical injury. See *Slamming the Courthouse Door: 25 years of evidence for repealing the Prison Litigation Reform Act*, Prison Policy Initiative, April 26, 2021 by Fenster & Schlanger.

reach the grievance office. Regular monitoring and reporting by a correctional ombudsman allows for early detection of problems and addressing them in lieu of waiting for months to complete the ARP process.²

The entire community is impacted when oversight fails and avenues for redress are limited. It is clear that maintaining family connections during incarceration fosters healthy relationships and helps to maintain the family unit, it enhances the well-being of the individual who is incarcerated and it facilitates their post-release success. It also serves to maintain peaceful operations within the institutions. However, self-help programs designed to engage family members like Family Day often get discontinued randomly, without advance notice or explanation and family members get banned, turned away and are treated like criminal suspects during social visits. Volunteers and family members should be treated with respect and have an avenue to complain without fear of reprisal, which is one essential element in this bill. Volunteers have kept many of the limited programs afloat even during the pandemic. They should not be made to feel unwelcome and the value that they bring to institutional operations must be recognized.

The Correctional Ombudsman would also provide an opportunity for staff to confidentially share their concerns about past incidents and about emerging problems, and to highlight those aspects of prison operations that are working well. Having an external, independent oversight can be effective and positively impact the overall facility operations for both staff and the incarcerated population alike. Per State regulation³ the Maryland Commission on Correctional Standards sets the minimum mandatory standards applicable to security and inmate control, safety, food services, housing and sanitation, classification and administrative record keeping. They are required to publish annual reports. The last report published and made available to the public is dated 2020⁴. In the summary of this report it is noted that the Commission audited 14 correctional facilities during FY 2020. It further notes that several audits were cancelled due to the pandemic and that FIVE of the facilities audited were found to be in total compliance with all of the minimum standards for prisons of adult confinement. One of the facilities listed is the Washington County Detention Center. Ironically, in July 2021 it was reported that detainee, Jazmin Valentine was left to give birth alone on the dirty, concrete floor of her solitary confinement jail cell while detained in local detention in Washington County⁵. Independent oversight and an avenue for individuals like Jazmin to reach out to when no one else hears her complaints are sorely needed.

I recently engaged with an older gentleman detained at the Maryland Correctional Institution – Hagerstown who is plagued by a myriad of chronic physical health conditions, including coronary artery disease, hypertension, hyperlipidemia, degenerative disc disease, deep vein thrombosis, glaucoma, asthma and arthritis. After having a balloon angioplasty, he was scheduled to return to the hospital for follow up care, but was not transported until eight months after the surgical procedure, despite his valiant attempts to notify medical and administrative staff about his need to return to the hospital.

² Code of Maryland Regulations, Title 12. Department of Public Safety and Correctional Services, Administrative Remedy Procedures to Resolve Inmate Complaints

³ See Correctional Services Article, Section 8-114, Annotated Code of Maryland (2017 Replacement Volume and 2022 Supplement).

⁴ See Maryland Department of Public Safety and Correctional Services, Maryland Commission on Correctional Standards, 2020 Annual Report.

⁵ [Lawsuit says woman gave birth alone on Maryland jail floor \(nbcnews.com\)](https://www.nbcnews.com/news/health/lawsuit-says-woman-gave-birth-alone-maryland-jail-floor-nbcnews.com)

The bill outlines the authority of the Correctional Ombudsman to:

- Investigate administrative acts;
- Conduct independent reviews and assessments;
- Cooperate with any agency in efforts to improve functioning;
- Inspect facilities unannounced;
- Seek to resolve complaints through mediation or conflict resolution;
- Maintain a website and provide reports; and
- Adopt regulations necessary to carry out these functions.

This office would operate similarly to the Juvenile Justice Monitoring Unit, which has enhanced transparency. Most importantly, the American Bar Association policy on oversight calls on every state to create similar oversight.⁶ This Correctional Ombudsman office would be enhanced by the support of the community-based advisory committee made up of a broad range of individuals, to include returning citizens.

The Correctional Ombudsman bill is designed to meet what the ABA calls for. Without a system of external oversight there are few ways to determine if Department of Public Safety and Correctional Services priorities and mission are consistent with actual practice.

We urge a favorable report.

Thank you for your time and attention.

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⁶ See ABA Report to the House of Delegates, Monitoring Correctional and Detention Facilities, January 2018