

Testimony January 2023.pdf

Uploaded by: ANITA WIEST

Position: FAV

Support House Bill HB 64

Favorable

Support Senate Bill 87

Hello. My name is Anita Wiest. I am a Maryland licensed clinical social worker and a Maryland licensed clinical addictions counselor and have worked in the fields of addiction and social work since 1989. I have experience developing and implementing programs in government agencies, the non-profit sector and for profit health services settings.

Between February, 2009 and May 2019, I worked as a correctional social worker at ECI and subsequently promoted to Eastern Regional Addictions Supervisor. I submit testimony in favor of House Bill 64 for a correctional ombudsman from these experiences.

Upon retirement in May, 2019, I became involved with the Maryland Alliance for Justice Reform in an effort to advocate for much needed treatment services in our state prisons; a role I was forced to abandon as an employee due to seeming lack of initiative on the part of the administration to meet the demand for additional treatment.

Members of MAJR have been met with Secretary Green three times via an electronic video platform to discuss concerns with the Secretary and others in administration including the new Secretary, Carolyn Scruggs. The office of the Secretary arranged those meetings following a February, 2022 letter to the Secretary expressing many of MAJR's concerns about the effective operation of our state prisons. Copies of this letter were also sent to then Governor Hogan, United States Attorney Erek Barron and all members of the Maryland Judiciary Committee and Maryland Judicial Proceedings Committee. The Secretary seemed very interested in meeting and also very clear that he was not interested in receiving any more letters.

Although these meetings have opened a pathway for communication and we would like to see them continue, we are still encountering misinformation and a lack of real time knowledge about what is occurring in the prisons. Our most recent example of this occurred on December 20, 2022. A question put forth to the administration in advance of our meeting asked about the number of PINS and the number of vacancies in departments of social work, psychology and addictions. Secretary Scruggs reported there were 32 addictions PINS in the department and 17 were vacant. I was shocked by this as I knew of only 3 addiction counselor PINS that were filled in the entire state prison system and inquired as to where these counselors were assigned. Ms Scruggs said she thought Hagerstown and Jessup and she would inquire and let me know. I have not heard more and I doubt these PINS have been hired.

I am aware of outside contractors doing addiction assessments and I am also aware assessing someone for the presence of an addiction problem is not treating them. When I retired in May 2019, there were 6 addiction counselors in the entire state prison system. Three of those counselors were at ECI. To my knowledge that number has dwindled to three

There is scarce drug treatment in the state prisons. Outside of ECI, there is really no drug treatment in any state prison. At ECI, our largest state prison with over three thousand incarcerated, there may be less than 40 men in treatment every five months. Although MAJR has continued to hear that jobs are being posted we have not experienced seeing anyone hired and delivering treatment services to the thousands of incarcerated persons in need.

I spoke to a man in his 30's, first incarceration, at ECI Annex on January 18, 2023. He has a history of drug use in the community but stated he stopped using upon the birth of his first child, He currently has 3 children and was incarcerated due to a violent altercation in which his family was threatened. He said he was able to avoid drugs while on the medium security compound but since arriving at the Annex he has had significant difficulty and is in danger of developing a drug habit. There are thousands of men with stories like his and there is no treatment in our prisons and there is no one in administration that appears to give a damn.

Worst case scenario: He will be released along with many others with a drug problem. He will overdose on fentanyl and die. His children will be left without a dad and likely to repeat some of his same patterns. Our prison system is currently set up for job security and little else. Please, please, please vote in favor of an ombudsman who can look into ways in which our system could be more effective and be a catalyst for operational change. I believe the money spent will result in monies and lives saved. The trickle down effect of the men and women serving time and the generational implications present an overwhelming cost to our communities.

Do not allow COVID to be the excuse for the downturn. I hired the last addiction counselor in the DOC in May 2017 at ECI, years before COVID. There is so much wrong with the addiction treatment program in particular and the Department of Corrections in general, that we need a third party appointed as oversight. We need transparency and the lack of transparency is endemic to DPSCS.

HB0064 Written Testimony.pdf

Uploaded by: Anne Kirsch

Position: FAV

HB 0064 SUPPORT

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HB 0064 SUPPORT

Office of the Attorney General - Correctional Ombudsman

House of Delegates Committee on Judicial Proceedings

Friday, January 24, 2023 at 1:00pm

My name is Anne Bocchini Kirsch, and I am a resident of Baltimore County and a returning citizen. I co-founded the non-profit PREPARE: Prepare for Parole and Reentry, where I work collaboratively with State agencies, community service providers, families, and justice impacted individuals to utilize existing resources, identify gaps, and improve outcomes for public safety and the individual. I am also a volunteer with Maryland Alliance for Justice Reform, which is how I became aware of this important piece of legislation.

My lived experience with incarceration and my current work as a parole and reentry advocate gives me a unique perspective on the importance of communication in the correctional system. In many ways, the Ombudsman's job is ultimately that of an advocate and communicator. Large systems are prone to miscommunications. Without someone who has the ability to look at the bigger picture, assess the problem, and coordinate the work of reaching a solution, these miscommunications frequently have significant consequences such as lost time, unused or misplaced resources, and hindered access to critical services. An Ombudsman is the fresh set of eyes Maryland needs to look at old, ingrained problems and create a collaborative space to develop solutions that promote efficiency and effectively utilize State resources.

As I've worked to address one of the problems that faces our correctional system and our State, I've been pleasantly surprised by the number of dedicated, hardworking people I've met - workers at DPSCS, DLR, MDH, and community resource providers both large and small, to name a few. In spite of all the talent and desire to make things

work, often individual employees are unable to get the high-level view necessary to design and deliver a solution. The current administrative remedy process is difficult for incarcerated people to navigate and engages State employees who do not have the scope or time to analyze issues and make changes at a policy level. It is unreasonable to expect a Custody Sergeant, or even a prison administrator, to investigate and challenge the statewide medical or mental health service contractor and devise or implement lasting and effective change. This is the job of an Ombudsman - someone with the access and authority to investigate problems, get to the root of them, and mediate a solution.

The benefits provided by a neutral party in problem solving are widely recognized. As the State of Maryland moves forward into a new Administration and a new era, it is my hope that we will promote communication, consensus building, and collaboration. There is no better way to start this process than to bring an Ombudsman into the difficult task of reexamining our current correctional system and making the changes necessary to deliver the positive outcomes that Maryland wants and return healthy, rehabilitated, and productive citizens to the community.

HB 64-Correctional Ombudsman testimony-UULM-MD-Sup

Uploaded by: Ashley Egan

Position: FAV



Unitarian Universalist Legislative Ministry of Maryland

Testimony in Support of HB 64: Office of the Attorney General - Correctional Ombudsman

TO: House Chair Clippinger and Members of the Judiciary Committee
FROM: Karen "Candy" Clark,
Unitarian Universalist Legislative Ministry of Maryland Criminal Justice Lead
DATE: January 24, 2023

The state-wide Unitarian Universalist Legislative Ministry of Maryland strongly asks your support for HB 64 establishing a Correctional Ombudsman. Maryland's Police Accountability Reforms recognized that **outside oversight** contributes to restoring trust and justice for the victims of **inappropriate use of power**. This bill will do likewise.

Stories of violence, neglect, demeaning treatment by correctional officers and others, seep out from behind the walls. An Ombudsman program benefits the prison environment and safety while bringing victims justice and holds those with power accountable. Several years ago, Gov. Hogan appointed Ron Green as Secretary of Corrections. Within a short time he was faced with an on-going scandal involving a dozen employees and others. This was only one of five major scandals that occurred over the past eleven years!

MARYLAND CAN –AND MUST– DO BETTER THAN THIS!

By establishing **impartial independent oversight**, the knowledge about the conditions and situation behind the walls will be more reliable. The Ombudsman has the right for unannounced visits, including the right to talk with **anyone**. Our correctional institutions should be a positive environment in which offenders are offered an opportunity to learn and transform through rehabilitation to become healthy productive citizens who will *not need to resort to crime to survive* upon their release.

Currently our Juvenile System does have an Ombudsman Program. This helps to keep the system working as it is intended and reveals **situations** that need to be addressed. The same consideration needs to be extended to our adults.

We need a Correctional System that we can be proud of, that honors the inherent dignity and worth of our returning citizens while we help them to prepare for a successful reentry .

UULM–MD asks for a favorable vote on HB 64.

Respectfully submitted,
Karen Clark

UULM-MD c/o UU Church of Annapolis 333 Dubois Road Annapolis, MD 21401 410-266-8044,

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RE_ HB64 Office of the Attorney General - Correcti

Uploaded by: Churon Lanier

Position: FAV

DEBRA M. DAVIS, ESQ.
Legislative District 28
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Environment and Transportation
Committee



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The Maryland House of Delegates
ANNAPOLIS, MARYLAND 21401

January 20, 2023

RE: HB64 Office of the Attorney General - Correctional Ombudsman

Dear Chairman Clippinger, and members of the House Judiciary and Health and Government Operations Committees,

I submit this letter in support of HB64 titled Office of the Attorney General – Correctional Ombudsmen.

During my time in the legislature, I have learned so much from my colleagues, constituents, and the citizens of Maryland. I regularly receive mail from incarcerated Marylanders and their families citing concerns ranging from access to mental and physical health services, living conditions, safety and allegations of basic civil rights violations.

This legislation would create and empower an Ombudsmen position in the Attorney General’s office to create oversight for our state prisons. Much like the Juvenile Justice Monitoring Unit which was established in to 2002 to oversee our youth in the Maryland Department of Juvenile Services.

Recent history has exacerbated the need for oversight. During the COVID pandemic my office struggled to answer family members questions or to get centralized data of whether there were masks, sanitation and appropriate precautions taken to protect the health of incarcerated individuals. More recently we learned of the horrific conditions of a pregnant inmate giving birth on the floor of one of our local jail cells while her cries for help went unanswered.

While this bill does not directly address local jails throughout the State it will certainly be a catalyst for establishing a reasonable standard of care.

At present our citizens lack transparency and accountability of what occurs "Behind the Walls" in our state corrections facilities. As policy makers it is incumbent upon us to have access to this information because as we know we cannot legislate what we cannot see.

Respectfully Submitted,

Delegate Debra Davis

HB 64 MOPD Support.pdf

Uploaded by: Elizabeth Hilliard

Position: FAV



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: HB 0064 – Office of the Attorney General Correctional Ombudsman

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 1/20/23

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 64.

Independent oversight and expanded opportunities to improve and reform current conditions within Maryland's correctional facilities is long overdue,¹ and has become even more urgent with the ongoing COVID pandemic.² Public defenders throughout the state regularly hear from clients with disturbing complaints on a variety of issues, such as lack of access to needed medical care and/or medication, officer abuse and misconduct, overuse of restrictive housing, plumbing and sanitation deficiencies, and insufficient heat or ventilation.

¹ See e.g., *Ailing System Struggles with Inmate Care*, THE BALTIMORE SUN, June 10, 2005, available at <https://www.baltimoresun.com/maryland/bal-te.md.prisons10jun10-story.html>; *City Jail Grievance System Broken*, THE BALTIMORE SUN, July 6, 2013, available at <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-bcdc-grievances-20130706-story.html>; *Disability Rights Maryland, SEGREGATION AND SUICIDE: CONFINEMENT AT THE MARYLAND CORRECTIONAL INSTITUTION FOR WOMEN*, December 14, 2018, available at https://disabilityrightsmd.org/wp-content/uploads/2018/12/MCIW_Report-Final.pdf.

² See, e.g., *'Treated like an animal' | Man details COVID-19, conditions at Prince George's County jail ahead of hearing on lawsuit*, WUSA9, June 23, 2020, available at <https://www.wusa9.com/article/news/local/maryland/man-details-covid-19-conditions-at-prince-georges-county-jail-ahead-of-hearing-on-lawsuit/65-05afa926-5939-408c-89de-6d63a3378892>; *State agrees to provide vaccines, cleaner conditions for inmates at Baltimore jail to end COVID-19 lawsuit*, THE BALTIMORE SUN, April 15, 2021, available at <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-cdf-coronavirus-lawsuit-settlement-20210415-uxrrgvdurndijfg77yr2ffl6ry-story.html>; *Correctional Officers: Understaffing Creates Unsafe Conditions At State Prisons, Jails*, WJZ-13 CBS Baltimore, available at <https://baltimore.cbslocal.com/2022/01/10/correctional-officers-understaffing-creates-unsafe-conditions-at-state-prisons-jails/>.

A sampling of concerns that have been raised to our office in the past year, and would have benefited from an ombudsman, include:

- • Complaints about lack of heat, which resulted in at least one person going to the hospital with hypothermia;
- • Lack of access to prescribed medication for established and often serious medical conditions;
- • Lack of access to masks and other PPEs;
- • Extended isolation of people who test positive or were exposed to COVID;
- • Lack of shower access for people in quarantine for more than 10 days;
- • Mingling protective custody and general population inmates because segregation units were used for quarantining;
- • Youth charged as adults placed in extended isolation without any access to school or rehabilitative programming;
- • Plumbing issues that require using blankets and towels to prevent water from entering sleeping area. In one facility, feces flushed down one toilet appeared in another toilet because the pipes were so backed up;
- • Mold on ceiling and in air vents.

Our attorneys are very concerned for the health safety, and wellbeing of our clients, but we lack the capacity, statutory authority, and expertise to address these issues. An independent ombudsman would serve as an effective and efficient way to have concerns reviewed and redressed, minimizing the harm of issues that are ignored due to technical grievance requirements and possible litigation of issues that may eventually be properly grieved but not actually resolved.

The Juvenile Justice Monitoring Unit (JJMU), which similar to the ombudsmen proposed under this bill is an independent agency housed in the Attorney General's office, shows how valuable and effective such an entity can be. Formed in the wake of widespread systemic abuses throughout the juvenile justice system, the JJMU has improved transparency and accountability about the plight of children incarcerated in Maryland's juvenile justice system. OPD's juvenile defenders have provided information to the JJMU with assurance that issues will be given prompt and

sufficient attention to encourage positive change without waiting for conditions and their resulting harms to exacerbate.

In healthcare and other settings, prisoners are often considered a vulnerable population because of the constraints of incarceration as well as their disproportionate poverty and limited access to community services. Individual prisoners also frequently have heightened risk factors due to their age (young or old), medical and/or mental health conditions, and other factors (LGBT status, non-English speaking, etc.). An independent monitoring agency is as urgently needed for these individuals as they are for the children in DJS facilities.

Sweeping efforts across the country and world are taking heed to the notion that it is time we take a closer look at the conditions of confinement at every level of government amidst an unrelenting backdrop of inhumane conditions that fail to reduce recidivism or properly rehabilitate incarcerated individuals.³ The implementation of an independent Correctional Ombudsman to oversee and investigate long-standing systemic problems within Maryland's correctional system is a great start and a welcomed effort to help root out and eliminate the underlying causes of widespread dysfunction and corruption that have undermined rehabilitative efforts for incarcerated individuals.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on HB 64.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

³ The Vera Institute, REIMAGINING PRISON, October 2018, *available at* https://www.vera.org/downloads/publications/Reimagining-Prison_FINAL3_digital.pdf.

Catholic Conference - FAV

Uploaded by: Garrett O'Day

Position: FAV



**MARYLAND
CATHOLIC
CONFERENCE**

January 24, 2023

HB 64

Office of the Attorney General – Correctional Ombudsman

House Judiciary Committee

Position: SUPPORT

The Maryland Catholic Conference offers this testimony in SUPPORT of House Bill 64. The Catholic Conference is the public policy representative of the three (arch)dioceses serving Maryland, which together encompass over one million Marylanders. Statewide, their parishes, schools, hospitals and numerous charities combine to form our state’s second largest social service provider network, behind only our state government.

House Bill 64 would establish the office of correctional ombudsman within the Maryland Office of Attorney General. This would allow Maryland correctional inmates and their families a vehicle for complaints to ensure proper treatment within the correction systems, complete with remediative enforcement procedures. Correctional ombudsman would each serve a five-year term.

The Conference supports this bill as a means for ensuring the rights and dignity of incarcerated persons are both advocated for and respected. Prisoners should be ensured basic rights such as access to healthcare, sanitation, healthy food sources, protection from violence, mail delivery, access to educational materials, and proper access to legal representation. The Ombudsman will ensure these rights are afforded.

Catholic doctrine provides that the criminal justice system should serve three principal purposes: (1) the preservation and protection of the common good of society, (2) the restoration of public order, and (3) the restoration or conversion of the offender. The United States Conference of Catholic Bishops has stated, “Punishment alone cannot address complex social problems in communities, or effectively help end cycles of crime and violence. A restorative justice approach is more comprehensive and addresses the needs of victims, the community and those responsible for causing harm through healing, prevention, education, rehabilitation and community support.” (Restorative Justice: Healing and Transformation of Persons, Families and Communities, USCCB, 2015)

Inseparable from the third of these is ensuring that the prison environment is one that fosters such restoration. The Maryland Catholic Conference thus urges this committee to return a favorable report on House Bill 64.

OmbudsmanTestimony.pdf

Uploaded by: Gordon Pack, Jr.

Position: FAV

January 18, 2023

House Judiciary Committee
House Office Building
6 Bladen Street
Annapolis, Maryland 21401

Re: Testimony in Support of HB 0064
Correctional Ombudsman Bill
Sponsor Delegate Debra Davis

Dear Committee Members:

Having served over forty-two consecutive years in Maryland's prison system, I support the Office of Attorney General - Correctional Ombudsman Bill. There is a need for a non-partisan agent to oversee the implementation of statutory and regulatory provisions in this State's correctional facilities. Whether prisoner or correctional staff, human beings are subject to error and typically act according to what is inspected as opposed to what is expected.

I can attest to shortcomings of prisoners, staff, and procedures. Will some prisoners lie, cheat, and violate rules? Will some staff violate rules and neglect duties? Do facilities receive prior notice to prepare for audits? Do individuals and departments function optimally at all times? There are a host of reasons why failings occur.

The legislature has enacted laws governing operations of prison facilities. Ignoring the probability that problems exist is not in the interest of public safety and undermines the penological justifications of imprisonment. More importantly, Correctional staff should be able to work and prisoners should be able to live in productive and safe environments.

This can only be accomplished by having a neutral party to investigate, oversee, and mediate reasonable concerns with implementation of statutory and regulatory provisions. It is my sincere hope that you will consider this testimony and pass this Bill to the floor for a vote.

Truly yours,

Gordon R. Pack, Jr.

2023-01-24 HB 64 (Support).pdf

Uploaded by: Hannibal Kemerer

Position: FAV

ANTHONY G. BROWN
Attorney General



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January 24, 2023

TO: The Honorable Luke Clippinger
Chair, Judiciary Committee

FROM: Hannibal G. Williams II Kemerer
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: HB0064 – Office of the Attorney General – Correctional Ombudsman –
Support

Chair Clippinger, Vice Chair Moon, and distinguished Members of the Judiciary Committee, I write to urge you to favorably report House Bill 64. This legislation, sponsored by Del. Debra Davis, would create a Correctional Ombudsman within the Office of Attorney General to oversee the Department of Public Safety and Correctional Services' treatment of prisoners in its care. In short, the Correctional Ombudsman would serve the same function in adult prisons that the Juvenile Justice Monitoring Unit (also within OAG) serves for the Department of Juvenile Services—that of an independent overseer. This will ensure that the State complies with prisoners' substantive, procedural, and constitutional rights while they're incarcerated.

Section 2 of House Bill 64 also includes the necessary resources for the OAG to hire “at least two staff members” in 2024, and “at least seven staff members” in 2025, “and each subsequent year.” This is critically necessary because without adequate resources, our Office has been unable to stand up and hire an Educational Ombudsman even though one was called for in legislation that passed the General Assembly in 2020.¹

¹ Senate Bill 504/House Bill 699 (2000) created the Special Education Ombudsman in the Office of the Attorney General. The purpose of the Special Education Ombudsman is to serve as a resource to provide information and support to parents, students, and educators regarding special education rights and services. The Attorney General will be responsible for appointing the Ombudsman. The Ombudsman will serve as a source of knowledge and information on the State and Federal Laws, rules and regulations governing education of students with disabilities; provide impartial information to the parents of students with disabilities on how to navigate the process of obtaining special education evaluations and services, and additional duties serving parents, students and teachers in the state. In addition, the Ombudsman must, on or before July 1, 2022, and each July 1 thereafter, submit a report to the Senate Education, Health and Environmental Affairs Committee and the House Committee on Ways and Means that

For the foregoing reasons, the OAG urges a favorable report on House Bill 64.

cc: Committee Members

includes: (1) number and types of calls received on the toll-free telephone during the previous year; (2) any patterns of complaints; (3) summary of the services provided by the Ombudsman during the previous year, and (4) any recommendations the Ombudsman determines are appropriate and necessary concerning the State's implementation of special education services. The bill passed, with amendments, in the House (129-1) and the Senate (34-11). The bill took effect July 1, 2020, but the neither the Governor nor the General Assembly ever appropriated any funds to fulfill this mandate.

Written Testimony Jeff Sean Andrews 01202023.pdf

Uploaded by: Jeff Sean Andrews

Position: FAV

My name is Jeff Sean Andrews. I was released from the Department of Correction under the Juvenile Restoration Act after servicing 30 years. I am in support of the Ombudsman legislation for independent oversight of the Maryland Department of Public Safety. During my lengthy time within several correctional facilities in Maryland I have witnessed firsthand and been the recipient of the inhumane treatment and lack of services within the prisons. Several inmates suffer from severe health issues and are misdiagnosed. They are given incorrect medication and there is no treatment for mental health. I witnessed the death of inmates and conversations by staff stating we were not worth saving. If an inmate is depressed or is suicidal you are put in a room and not provided any therapy. There are not adequate access to vocational programs for all the inmates. We could not get assistance for a tutor if you were placed on solitary confinement. During solitary confinement, inmates are left in the cell for 30-60 days alone with no one to talk to or to help with thoughts of depression and worthlessness.

WDC 2023 Testimony HB0064_Final.pdf

Uploaded by: JoAnne Koravos

Position: FAV



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**House Bill 64 Office of the Attorney General - Correctional Ombudsman
Judiciary Committee – January 24, 2023
SUPPORT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2023 legislative session. WDC is one of the largest and most active Democratic clubs in our county with hundreds of politically active women and men, including many elected officials. WDC is joining with other criminal justice reform advocates to urge the passage of HB0064 to establish a correctional ombudsman in the Office of the Attorney General.

WDC sees the health and safety of our communities as intrinsically linked to our system of incarceration and how we treat people who are or were behind the walls of the prisons. The impetus for this bill is a history of unacceptable conditions in Maryland's prisons and jails and the recognition that independent oversight could help pave the way for the transformative change in the system that is needed, and accountability for the results.

Although much of what happens in our correctional institutions has not been transparent, we do know that the Maryland prison and jail system has been found to be corrupt and/or inhumane in 2008, 2013, 2016, 2017, and 2019 and that there have been criminal convictions of multiple people related to drug trafficking and sexual assault.¹ We also know that thousands of people are released from Maryland prisons each year with insurmountable challenges because of their prison experience.

People behind the walls complain about abuse, unhealthy sanitation, unfair work conditions, and visitation policies that do not support families. People leave prison with mental and physical health disorders that were caused by incarceration, including excessive use of solitary confinement, that are not adequately addressed because of the lack of services or treatment. Inadequate training and skills development and education opportunities leave returning individuals unprepared to successfully reintegrate and take on roles as partners, parents, caregivers, employees, and community residents. Moreover, both the people who are incarcerated and staff can face retaliation for reporting abuse or complaining about deplorable or dangerous conditions. Unlike the juvenile facilities in Maryland, which have been subject to independent oversight since 2002 by the Juvenile Justice Monitoring Unit, the adult prison system is closed to outside review.

¹<https://www.ma4jr.org/ombuds/>



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

In July 2022, the Maryland Department of Public Safety and Correctional Services (DPSCS) reported that there were approximately 15,000 people in Maryland's prisons, of whom 70 percent were Black.² WDC strongly believes that as a matter of social justice, racial equity, and public safety Maryland needs to commit to operating a system that treats the people it incarcerates with respect and dignity and that recognizes the potential of people as human beings to improve themselves. Based on what we know about the culture and conditions in Maryland prisons, we think that having an independent ombudsman tasked with conducting investigations of prisoner complaints, making unannounced inspections of facilities, assessing services, programs, and policies, and making its findings public in annual reports could be instrumental in getting DPSCS on track to address the long-standing systemic problems in its prison facilities and achieve better outcomes for the thousands of Marylanders who are behind the prison walls and their families who share in the consequences of incarceration.

By passing HB0064, Maryland would be joining a diverse set of states that have passed similar legislation including Alaska, Washington, California, Florida, Indiana, Michigan, Nebraska, New Jersey, Texas, Hawaii, and Minnesota. Establishing an independent correctional ombudsman in Maryland is good government that can yield tangible benefits for the individuals who are incarcerated, their families, and the community-at-large.

We ask for your support for HB0064 and strongly urge a favorable Committee report.

Diana E. Conway
WDC President

Carol Cichowski
WDC Advocacy Committee

²<https://dpscs.maryland.gov/publicinfo/publications/pdfs/Inmate%20Characteristics%20Report%20FY%202022%20Q4.pdf>

HB 0064 Ombudsman IAHR.RJI Support 2023.pdf

Uploaded by: Kimberly Haven

Position: FAV

Kimberly Haven

January 20, 2023

Chairman Luke Clippinger
Vice Chairman David Moon
House Judiciary Committee

House Bill 0064 –
Office of the Attorney General – Correctional Ombudsman
POSITION: FAVORABLE

Members of the House Judiciary Committee,

My name is Kimberly Haven, and I am the Legislative Liaison for Interfaith Action for Human Rights and the Executive Director of Reproductive Justice Inside. *I offer this testimony in support of HB0064.*

I have testified before this committee and stated that “we can’t fight or address what we can’t see, and we can’t see what they don’t show us.” HB 0064 provides a mechanism for the oversight of the Department of Public Safety that is both long overdue and needed. I would be remiss if I did not acknowledge that the Department, in addition to its new leadership, has made significant progress in certain areas of operation – however, there is more to do.

This is good legislation. With this legislation, Maryland is now ideally positioned to usher in a new framework of transparency and accountability under the new leadership of DPSCS. This legislation allows for holding our system up for investigation and scrutiny. Advocates, families, communities, and taxpayers need this impartial body to ensure that our facilities are safe, that they are well managed and that all its operations are transparent. This legislation would strengthen and support other legislation soon to come before this committee, particularly Restrictive Housing Reforms (The Maryland Mandela Act).

To have an impartial entity both responsible for oversight and empowered with the tools and resources to investigate will shine a bright light on the conditions and concerns that have only deepened over the years.

What is significant about this legislation is its objectivity. We are all aware of PRISM which in the past has been the response to complaints against the Department. This organization is totally funded by the State which is tantamount to the police policing themselves. Routinely, they are not responsive

to complaints or concerns from those incarcerated in our prisons and are not required to respond to advocates and attorneys. Why would they when the State is their client?

This legislation is good policy. It will move Maryland in the right direction – the direction of transparency and accountability.

As I stated in my opening, we can't fight or address what we can't see, and we can't see what they won't show us. HB 0064 will bring to light what we must address within our correctional system.

For these reasons and on behalf of Interfaith Action for Human Rights and Reproductive Justice Inside, *I urge a favorable report on HB 0064.*

Respectfully submitted,

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Marsha Briley Written Testimony 01202023.pdf

Uploaded by: Marsha Briley

Position: FAV

My name is Marsha Briley. I am a former employee of DPSCS and advocate working with the Maryland Alliance for Justice Reform. I was a state employee that held several positions in state government to include leadership with oversight of staff, contracts, MOUS, programs and policy development and implementation. I am in support of independent oversight of DPSCS because of the unscrupulous practices for which I have personally witnessed. I have been subjected to retaliation for being ethical and transparent in the performance of my duties. There were organizations billing for services that were not performed and due to their personal relationships with executive leadership within DPSCS, thousands of dollars were paid to this particular organization. Non-compliance with the Justice Reinvestment Act as it relates to the requirement to implement evidence-based programs, creating invisible barriers to vetted organizations to provide services to the incarcerated population. The internal grievance process is tainted, fraudulent paperwork is produced, lost or disposed of to hide evidence during investigations, and personnel is threatened with termination if you do not support the leadership in the course of wrongdoing. If you go against the culture, you are targeted. It is a closed and incestuous environment. There is no trust between the line staff and executive leadership. There needs to be an avenue for staff, community based organizations, local agencies, inmates, and inmate families to report these activities without fear of retaliation to include losing their careers.

Respectfully submitted,

Marsha A. Briley

FAMM HB 64 Prison Oversight Stmt 1.24.23.pdf

Uploaded by: Molly Gill

Position: FAV



Written Testimony of Molly Gill
Vice President of Policy, FAMM
In Support of HB 64
Maryland House Judiciary Committee
January 24, 2023

I thank the Chair, Vice-Chair, and members of the House Judiciary Committee for the opportunity to provide written testimony in support of HB 64, a bill to establish an independent ombudsman to provide oversight of the Maryland Department of Public Safety and Correctional Services (DPSCS). I write on behalf of FAMM, a national sentencing and corrections reform organization. **FAMM supports HB 64 and urges the committee to pass the bill.**

FAMM is a nonpartisan, nonprofit organization that advocates sentencing and prison policies that are individualized and fair, protect public safety, and preserve families. Among the policies we advocate is the establishment of independent prison oversight bodies in each state. Most of the Marylanders who support FAMM have loved ones incarcerated in a state prison, and their top concern is that loved one's safety, health, and rehabilitation. Yet we consistently hear from our members that state prison facilities are unsafe, unsanitary, and lack sufficient medical and mental health care, staff, and rehabilitative programming. Maryland families almost uniformly report to us difficulties in getting information about and help for their incarcerated loved ones from the staff and administration at the DPSCS. The independent prison oversight envisioned in HB 64 will provide the transparency and accountability these families and taxpayers need and deserve.

Americans of all political persuasions intuitively understand the value of increased transparency and accountability in prisons: **in a recent national poll, 82 percent of Americans agreed that every prison system should have independent oversight.**¹ Independent oversight is long overdue for DPSCS, an agency with a \$1.4 billion annual budget, almost 18,000 incarcerated people in its care, and more than 9,000 state employees on its payroll.²

Prisons are some of the darkest places, and sunlight is the best disinfectant. To be an accountable, transparent prison system that keeps us safe and has our trust, every prison system should be subject to oversight by an independent body that has "golden key access" to monitor and inspect facilities (announced or unannounced), address prisoner grievances and investigate complaints, provide recommendations for improvements, and make its reports and findings available to the public and to lawmakers. HB 64 would achieve these goals.

¹ Public Opinion Strategies, National Survey on Prison Oversight conducted for FAMM July 29-Aug. 3, 2022, <https://famm.org/wp-content/uploads/FAMM-National-Survey-Key-Findings.pdf>.

² Dep't of Pub. Safety and Corr'l Svcs., Fiscal 2023 Budget Overview, at 2, <https://mgaleg.maryland.gov/pubs/budgetfiscal/2023fy-budget-docs-operating-Q00-DPSCS-Overview.pdf>.



The ombudsman envisioned in HB 64 is similar to other fully independent prison oversight bodies in Washington State, Ohio, Pennsylvania, and New York.³ States as varied as Virginia, Missouri, Mississippi, and Arizona, among others, are currently considering similar prison oversight legislation.⁴

Some may oppose independent oversight by claiming that it is unnecessary because of existing oversight mechanisms. While there is value to other forms of oversight like audits, accreditation of facilities, or Prison Rape Elimination Act (PREA) inspections, these events are sporadic, often announced in advance (giving officials time to hide or fix problems beforehand), and limited in scope. The DPSCS's internal oversight efforts are laudable but lack the objectivity that only an independent investigation from an outsider can bring.

Permanent, full-time independent prison oversight is needed. It can save lives and stop small problems from turning into bigger ones that trigger expensive lawsuits. Prisons operate 24 hours a day, 365 days a year, with public safety and the lives and well-being of tens of thousands of staff and incarcerated people hanging in the balance. Corrections staff and incarcerated people and their families have daily concerns about health, safety, access to medical and mental health care and rehabilitative programming, lack of responsiveness to complaints, and other issues that can compound to become long-term, system-wide problems. Neglected daily concerns of both corrections staff and incarcerated people can even be life-threatening. An annual audit, accreditation, or inspection is insufficient to identify and fix the problems and shortcomings staff, incarcerated people, and their families are living with day-in and day-out.

Independent oversight benefits everyone it touches. Corrections staff deserve a safe, healthy work environment and need a place to go with complaints that, for whatever reason, are squashed, unanswered, or ignored by the administration. Incarcerated people have a constitutional right to a safe, healthy, humane prison environment and need a place to go when the DPSCS grievance process breaks down or they have no safe place to turn to for help. Families of incarcerated people need someone to call when they cannot get help for their loved one despite following all of the DPSCS's rules. Oversight encourages increased professionalism at every level of an agency.

Lawmakers also benefit from independent prison oversight. A prison ombudsman can be the eyes and ears of the legislature 365 days a year, reporting back on how prisons are really operating and how money is really being spent. Lawmakers need this steady feedback and insight into a large, expensive agency that can often be opaque and unresponsive.

We hope the legislature will adopt HB 64 this year to begin making the state's prisons more transparent and accountable.

³ For a complete list of current independent prison oversight authorities, see Michele Deitch, *But Who Oversees the Overseers?: The Status of Prison and Jail Oversight in the United States*, at 259, <https://utexas.app.box.com/v/ButWhoOverseestheOverseers>.

⁴ FAMM, *Prison Oversight Legislation Tracker*, <https://docs.google.com/spreadsheets/d/1bQLE3bPPNU2IInTqDPBXnLBoaCcaZ-6qSwT3AEJVuZ4/edit#gid=1674058966> (last updated Jan. 20, 2023).

JJMU SUPPORT - HB 64 - OAG - CORRECTIONAL OMBUDSMA

Uploaded by: Nick Moroney

Position: FAV



STATE OF MARYLAND
JUVENILE JUSTICE MONITORING UNIT

**TESTIMONY IN SUPPORT OF HB 64: OFFICE OF THE ATTORNEY GENERAL –
CORRECTIONAL OMBUDSMAN**

House Judiciary Committee
January 24, 2023

Submitted by Nick Moroney, director, Juvenile Justice Monitoring Unit (JJMU)

The Juvenile Justice Monitoring Unit (JJMU) supports HB 64 which will improve safety and services inside Maryland's prisons by providing independent oversight of the corrections system. Our unit was established as an independent state agency in the wake of widespread systemic abuse issues in the Maryland juvenile justice system. We are currently housed in the offices of the State Attorney General. Unit monitors perform unannounced visits to Maryland Department of Juvenile Services' (DJS') operated facilities in order to guard against abuse of incarcerated young people and ensure that they receive appropriate treatment and services. The JJMU has been instrumental in driving positive changes by increasing system transparency and accountability as well as raising awareness about the needs of incarcerated children and young people in Maryland. Our public reports can be accessed via the following link: <https://www.marylandattorneygeneral.gov/pages/jjm/default.aspx>

Unfortunately and in contrast to the Maryland juvenile justice system, people housed in prisons in our state have been left without the protections and early interventions that an effective independent watchdog can bring. We have found that external oversight works as an essential safeguard against the many kinds of abuses that can occur inside high fences and behind locked doors, and we believe that the Ombudsman's office as envisioned by HB 64 can accomplish a similar mission to ours by helping to transform the corrections system for the better. We have worked constructively with stakeholders throughout the juvenile justice system in pursuit of our mission and the proposed Ombudsman's office can achieve similar success through positive collaboration with those involved and impacted by the Maryland corrections system.

We are confident that the Ombudsman's office will mitigate abuse and help to address potentially serious shortcomings before they become chronic systemic issues. The passage of HB 64 into law will bring much needed transparency, accountability, and oversight to Maryland's prison system and will promote the safety, health, mental health and overall well-being of individuals in state custody by ensuring that incarcerated people receive adequate rehabilitative services to facilitate successful community re-entry.

Public reporting requirements within the bill will keep Maryland citizens and criminal justice stakeholders aware of systemic issues and proposed solutions to problems within the correctional system. This heightened awareness of conditions of confinement is an essential first step toward constructive prison reform measures leading to a more effective corrections system – one that better equips imprisoned people for a productive life in their communities. Such an outcome will help reduce recidivism, strengthen families and communities, and result in enhanced public safety for our state.

For all the reasons just given, the JJMU strongly supports this bill and respectfully urges the committee to give HB 64 a favorable report.

O. Moyd Testimony HB 0064 - January 2023.pdf

Uploaded by: Olinda Moyd, Esquire

Position: FAV

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



January 20, 2023

Testimony In SUPPORT of HB 0064 – Office of the Attorney General – Correctional Ombudsman

**Submitted by: Olinda Moyd, Esq.
Chair, Behind the Walls Workgroup
Maryland Alliance for Justice Reform**

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.

Olinda Moyd, Esq.

moydlaw@yahoo.com

301-704-7784

Resident of Prince George's County/District 23

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

Support HB 64 - Corrections Ombudsman Act.pdf

Uploaded by: Philip Caroom

Position: FAV

Support HB 64 – Correctional Ombudsman Act

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



TO: Chair Luke Clippinger and House Judiciary Com.,
Chair Joseline Pena-Melnyk and House HGO Com.

FROM: Phil Caroom, MAJR Executive Committee

DATE: January 24, 2023

Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) strongly supports HB 64 (and bipartisan-sponsored SB 87) to create an independent Correctional Ombudsman office that will bring transparency and identify solutions for the many long-standing problems of 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, instead housed within the Attorney General's office. With unannounced inspections, "whistle-blower" protection, alternate dispute resolution (ADR), and public reports and recommendations, an ombudsman office would improve functioning of Maryland prisons because:

-Correctional Standards Commission (CSC) provides only pre-scheduled (sometimes, self-reported) inspections by colleagues and CSC 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 press releases, would have their many 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 and may obstruct the process. If dissatisfied, prisoners 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, traditionally, experience management problems due to political pressures, budget constraints, and inconsistencies between centralized control and decentralized fiefdoms of wardens and correctional administrators. Full disclosures also are obstructed 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 several years. The Division of Corrections' most common response has blamed and restricted prisoners' family visitation. But unreported prisoner overdoses continued during the pandemic, despite the interruption of visitors!

- Confidential reports as to correctional officers' corruption would become easier with an 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 due to the shocking scarcity of treatment resources. **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 “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 many months – Early reports by Md. prisoners, families & advocates were ignored until statistics showed 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 ombudsman would carry more credibility and, thus, bring quicker responses. **In Nebraska’s correctional ombudsman-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, were cut in recent years. GEDs, job-training, and drug treatment numbers all dropped in the same period. Such programs, as well as education and vocational training, both reduce prison security problems and prisoners’ recidivism upon release. An ombudsman report could offer the “big picture” and full context as to how cuts hurt our prisons’ rehabilitative effectiveness. **See testimony of former ECI warden - Kathleen Green.**

5) Overly-harsh 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 cooperation rather than duplication and for prevention rather than crisis-response. **See testimony of Nick Morony, JJMU director.**

Eight sister states and many large counties—18 jurisdictions in all— have adopted correctional ombudsman or other oversight systems with various names and mandates. (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 (2021).**)

With his 10/10/19 proclamation, former 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), HB 64 / SB 87 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.

HB 64_AFSCME3_FWA.pdf

Uploaded by: Denise Gilmore

Position: FWA



190 West Ostend St., #201
Baltimore, MD 21230
Phone: 410.547.1515
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Patrick Moran - President

HB 64 - Office of the Attorney General - Correctional Ombudsman

POSITION: FAVORABLE WITH AMENDMENT

AFSCME Council 3 represents 30,000 state and higher education employees, including the hard-working women and men who work in the Department of Public Safety and Correctional Services (DPSCS). We support HB 64. This legislation establishes a Correctional Ombudsman in the Office of the Attorney General. HB 64 also establishes a Correctional Ombudsman Advisory Board consisting of 10 members appointed by the Attorney General, including representation from nonsupervisory correctional officers. We believe the below amendment is necessary in this appointment process:

AFSCME Proposed Amendment to HB 64

Pg. 12, line 14; 6-706(E)(3)

(3) Nonsupervisory Correctional Officers **recommended by the President of the American, Federation, of State, County, and Municipal Employees, Council 3;**

Reason for Amendment

We believe the intent of this section is to ensure that the nonsupervisory correctional officers who are appointed will be free to voice their concerns without being subject potentially to departmental policies that may seek to gag them or the fear of any retaliation by the administration. We believe the best way to guarantee this is to have the nonsupervisory correctional officers participate on the advisory board in their role with the union, and not solely as DPSCS employees. There is already precedent for such a selection process in the State Advisory Board for Juvenile Services where this has worked well. We believe this will also work well with the Correctional Ombudsman Advisory Board.

For these reasons, we urge the committee to provide a favorable with amendment report on HB 64.

Every AFSCME Maryland State and University contract guarantees a right to union representation.
An employee has the right to a union representative if requested by the employee.
800.492.1996

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Written Testimony for Bill HB0064.pdf

Uploaded by: Diane Phillips LaGuerre

Position: FWA

Written Testimony for Bill HB0064- Correctional Ombudsman

Suggest Amendment to include that this role(s) serves all levels of incarceration-including all Local, County, Federal Correctional Institutions in Maryland regardless of whether or not the primary purpose is Forensic.

Hello, as a mother of a currently incarcerated son, a cousin to another incarcerated man, and an aunt to another incarcerated man in the United States, I am actually quite surprised that there aren't already a spokesperson/people on behalf of incarcerated individuals. I am a newly registered member of MAJR (Maryland Alliance of Justice Reform) and I joined after not understanding how the prison system runs with seemingly low to no oversight to ensure that there are no human right violations or concerns. The lack of oversight became obvious to me when my son became incarcerated over 6 years ago. I had never been previously exposed to the prison system except for hearing about my cousin having been imprisoned in Chicago. I expected that meant that he had little to no access to the outside world, that he had to be among others who had committed similar crimes and, I assumed he was guilty.

But with my son's incarceration, my eyes opened up to a whole new perspective on this system. I call it, the new slavery. I thought slavery in the US ended many years ago. But when you lock people up without fair trials, give them mandatory and excessive imprisonment terms, not abide the regulations/laws instituted to protect incarcerated people within the system, give them poor food, poor places to live and sleep, low access to education, low access to healthcare, little to no pay for work, and impact mostly people of color and/or of low socioeconomic status, I can't think of any other parallel system but slavery. Not saying that consequences are wrong for inappropriate behavior but it's time to re-examine what and where the consequences should be, who should be facing these consequences, when should we accept that the consequences have been fulfilled, and how we can ensure that the system is more fair and more equitable among all Americans. I think it's time to do things in a way that supports the foundation of freedom and pursuit of happiness on which the premise of the United States was born.

An ombudsman would be scratching the surface of what is needed but we need to start somewhere, and we need to start NOW!

As an American Citizen, as a Maryland Resident for all of 61 years of my life, as a Healthcare professional dedicated to serve those in need of all types of Healthcare, as a daughter of a Father who dedicated his life in Maryland by serving the healthcare needs of Maryland residents and in particular those suffering with Mental Illness and of a Mother who was a key figure in Maryland as a Volunteer ensuring that assistance was rendered to those in need in Maryland, as a sister to a brother who also served much of his life providing services to help residents in Maryland with substance use disorders, as a sister to other siblings that have provided much more than I can include on this message, and as a friend to many, many others in Maryland, I pray that you will not only vote to pass this legislative request but insist that your colleagues do the same.

Sincerely,

Diane Phillips LaGuerre, RN

HB64.pdf

Uploaded by: Matthew Pipkin

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
House Health and Government Operations Committee

FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523

RE: House Bill 64
Office of the Attorney General – Correctional Ombudsman

DATE: January 18, 2023
(1/24)

POSITION: Oppose, as drafted

The Maryland Judiciary opposes House Bill 64, as drafted. This bill establishes the Correctional Ombudsman in the Office of the Attorney General.

It is unclear whether this bill is intended to cover Judiciary employees, as outlined below, but raises separation of power concerns if so. The first area that causes concern in this bill comes at page 5 under the definition of agency in Proposed State Government Article 6-701(c)(iii) and (iv):

iii: Any person providing services under a contract with the Department of Public Safety and Correctional Services to Individuals who are confined by or under the supervision of the department or

iv: Any officer, employee, or administrative hearing examiner of the state or a unit of local government who is acting or purporting to act in relation to individuals confined by or under the supervision of the Department of Public Safety and Correctional services.

Judges are expressly excluded from the definition of “agency,” so the issue is whether a Judiciary employee would fall under c(iii) or (iv) above.

“Unit” is only used for local government entities, so the determination here is whether or not a Judiciary employee acting in the capacity above is “of the state.” Absent any other language, given that the Judiciary has state-compensated employees, this would likely apply to Judiciary employees engaged in referenced acts (likely programs and problem solving courts staff). Subsection (iii) is more problematic if the Judiciary has employees

who perform services under Memorandum of Understandings (MOUs) with the Department as there is no specific state employee requirement.

Further, and also troublesome for statutory interpretation, is subsection (2) which states that “agency” does not include:

- (i) A Judge as defined by 1-101 of the Courts Article;
- (ii) The General Assembly or any member, employee, or committee of the General Assembly;
- (iii) The Governor or the Governor’s personal staff.

Here, the executive and legislative branch personnel have specific carve outs for staff and employees, so the absence of the same for Judiciary employees suggests that they are intended to be included.

Further, section 6-704 may limit investigations generally to “administrative acts” of agencies but the definition of “administrative act” is extremely broad, especially given the vague definition of “agency.” The bill defines administrative act as any action decision, adjudication, failure to act, omission, rule or regulation, interpretation, recommendation, policy, practice or procedure of an agency. For example, if it applies to Judiciary employees and a defendant complains about conditions in a courthouse lockup, the bill appears to allow the ombudsman to “access any records maintained by the” Judiciary. It could even be as broad to include responses to letters from inmates making random requests. Given the vague definition of agency, plus broad investigative authority of the ombudsman, this bill is highly problematic.

cc. Hon. Debra Davis
Judicial Council
Legislative Committee
Kelley O’Connor

HB0064 - Correctional Ombudsman.docx (2).pdf

Uploaded by: Jennifer Beskid

Position: INFO



Department of Public Safety and Correctional Services

Office of Government & Legislative Affairs

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ACTING
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OPERATIONS

VACANT
ASSISTANT SECRETARY

JENNIFER BESKID
DIRECTOR

BILL: HOUSE BILL 64

POSITION: LETTER OF INFORMATION

EXPLANATION: This bill establishes a Correctional Ombudsman in the Office of the Attorney General and describes the qualifications and responsibilities of the ombudsman to include investigating any administrative act of the Department, conduct reviews and assessments; receive specific reports and audits; seek criminal charges of an employee or agent of the Department, as well as the ability to conduct unannounced inspections of the Department's facilities. **The Department has measures in place to conduct audits, review audit results, and respond to the duties that would be assigned to the Correctional Ombudsman. Establishing a Correctional Ombudsman in the Office of the Attorney General would result in a duplication and conflict of efforts.**

COMMENTS:

- The Department of Public Safety and Correctional Services' (Department) primary mission is to oversee the Division of Correction (DOC), which houses inmates sentenced to terms of incarceration exceeding 18 months, the Division of Pretrial Detention and Services (DPDS), and the Division of Parole and Probation (DPP).
- The safety, security, and well-being of the incarcerated population is a priority for the Department. Meeting this priority involves a multi-layered approach involving various internal and external processes as well as oversight entities.
- Mechanisms to ensure accountability in the treatment of the incarcerated population **are already established in statute, regulation, and policy, as well as being stipulated in contracts.**
- The Department is subject to thorough and routine internal and external audits conducted by the following State and national entities:
 - Maryland Commission on Correctional Standards
 - Office of Legislative Audits;
 - Office of Performance Evaluation and Government Accountability; and the
 - American Correctional Association;

- The Department has offices dedicated to investigating and responding to inmate grievances as well as mechanisms for correcting areas of noncompliance or concerns including:
 - Inmate grievances (see “Inmate Grievance Office” on page 3);
 - Criminal and administrative allegations of serious misconduct (see “Intelligence and Investigative Division” on page 3);
 - Management and accountability (see “Office of the Inspector General” on page 3); and
 - Adherence to medical treatment contracts (see “Office of Health Contracts Administration and Audits” on page 3)

- **The incarcerated population is able to avail themselves of claims or concerns surrounding conditions of confinement** via the “Administrative Remedy Process” (page 4). The process includes an investigatory process, timeframes for responses, and a right of appeal to the Office of the Inspector General as well as the Circuit Court.

- **The incarcerated population has access to legal representation - at no cost to them - on matters concerning conditions of confinement**, sentence calculation, constitutional rights, and claims that affect an incarcerated individual’s serious health, life, or safety concern (see “PRISM” on page 4)

- Maryland Commission on Correctional Standards (MCCS) - MCCS was established by the General Assembly to establish auditable standards and conduct routine audits for State and local correctional facilities. These audits, which are based on best practices in corrections, determine levels of compliance with the established standards. Audit reports conclude compliance and provide technical assistance to correct areas of noncompliance. The Department has complied with MCCS since it was established.

- American Correctional Administration (ACA) - In January 2020, DPSCS signed a Memorandum of Understanding with the ACA to accredit all of the Department’s correctional facilities. Accreditation requires adherence to the recently released performance based standards manual, *Performance-Based Standards and Expected Practices for Adult Correctional Institutions* (5th ed.).

- Office of Legislative Audits - The Office of Legislative Audits conducts fiscal and compliance audits of each unit of State government. This includes certain aspects of contract management.

- Office of Performance Evaluation and Government Accountability - The Office conducts performance evaluations of State government agencies and units. Further, the Office may investigate acts or allegations of fraud, waste, or abuse of State resources.

- As previously stated, the Department has additional units/divisions to investigate and respond to area of noncompliance including:
 - o Inmate Grievance Office (IGO) - The IGO has jurisdiction over all inmate grievance complaints against Departmental officials and employees.
 - o Intelligence and Investigative Division (IID) - IID conducts criminal and administrative investigations into allegations of serious misconduct within the Department.
 - o Office of the Inspector General (OIG) - The OIG is responsible for conducting a full range of independent and objective audits; inspections; management analyses; and investigations. The OIG also coordinates the Department's legislative audit response process, and provides technical assistance and advisory services to its audit customers. The office's efforts support the Departments' goal of achieving the highest standards of good management, accountability, and professional integrity.
 - o Office of Health Contracts Administration and Audits - This office is responsible for monitoring the Department's contracts with its medical and mental health treatment providers.

- As stated previously, State Regulation already provides an ARP for the incarcerated population. Chapter 12.02.28. of COMAR established a process by which an incarcerated individual may seek administrative remedy for conditions of confinement, which includes complaints or concerns regarding:
 - (1) Correctional facility policy and procedures;
 - (2) Medical and mental health services;
 - (3) Access to a court;
 - (4) Religious liberties;
 - (5) Inmate property that is:
 - (a) Lost;
 - (b) Damaged;
 - (c) Stolen;
 - (d) Destroyed; or
 - (e) Confiscated;
 - (6) Complaints against staff;
 - (7) Use of force;
 - (8) Sentence computation and diminution of confinement;
 - (9) Correctional facility conditions affecting inmate;
 - (a) Health;
 - (b) Safety; or
 - (c) Welfare;
 - (10) Retaliation for seeking to resolve a complaint through the ARP;
 - (11) Management and application of the procedures under this chapter for resolving an inmate complaint;

- (12) Commissary; and
- (13) Inmate telephone system.

- If the incarcerated individual is not satisfied with the resolution, there is an appeal process in place. The ARP is also subject to audits, which includes examination of:
 - (a) Required files and documents related to the correctional facility's use of the ARP;
 - (b) Documents related to investigations of inmate complaints under this chapter;
 - (c) Actions taken related to implementing remedies resulting from meritorious or meritorious-in-part inmate complaints;
 - (3) Conducting interviews with inmates and staff to assess the effectiveness of the ARP;
 - (4) Interviews with correctional facility staff to determine necessary amendments to the ARP; and
 - (5) An exit interview with the managing official to provide an overview of findings.
- In addition, a correctional facility may be subject to a non-scheduled audit or follow-up audit to determine progress on corrective action.
- PRISM - The Department has a contract with the Prisoner Rights Information Systems of Maryland (PRISM). PRISM is required to provide legal assistance to individuals incarcerated in state prisons on matters concerning conditions of confinement, sentence calculation, constitutional rights, and claims that affect a serious health, life, or safety concern of an inmate. PRISM must also conduct outreach and educate the incarcerated population of its available resources and access to the courts for these matters.
- The mechanisms described above are in place to ensure there is a fair and equitable process for an incarcerated individual to file and resolve complaints and grievances.

CONCLUSION: The Department of Public Safety and Correctional Services respectfully requests the Committee consider this information as it deliberates on House Bill 64.