

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

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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!

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