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TERRY SCHUSTER
Corrections Ombudsman

February 27, 2024

Dear Chair Clippinger, Vice Chair Bartlett, and members of the House Judiciary Committee:

My name is Terry Schuster. I'm the Ombudsman for New Jersey's prison system. I'm writing to support the legislation creating a similar office in Maryland (**HB 297**), and to share my thoughts on the value of such an office for the public, lawmakers, and the DPSCS.

My office's annual budget is \$2.6 million, which is about 0.2% of the Department of Corrections budget in my state. What that investment buys is sufficient staffing (26 FTE) to have people on-site multiple days each week in nine prisons to investigate complaints and alleged mistreatment, to conduct inspections of living conditions in prison facilities, to monitor systemic issues and make policy recommendations, and to operate a hotline for concerns from incarcerated people and their loved ones.

Independent prison oversight helps build public trust in corrections through transparency and accountability. It equips state leaders and the public with unbiased information about what is happening in their prisons, and provides incarcerated people and their families with a neutral entity that can access people and records on the inside when they believe the prison system may be causing harm.

Importantly, an Ombudsman does not make final decisions about policy and practice or how to remedy a particular problem. The office investigates concerns and makes them transparent for lawmakers, but all authority for prison management and operations remains with the DOC Commissioner. When the Ombudsman and the Commissioner disagree, the Commissioner is the final decision-maker. Having the external oversight in the form of the Ombudsman, however, allows the public and policymakers a window into those decisions and their impacts on the people held in state custody.

An Ombudsman is not gathering evidence for lawsuits against the Department of Corrections. While I don't have historical data on the number of lawsuits brought against the corrections department in my state, my anecdotal understanding is that many of the concerns that incarcerated people might otherwise seek to remedy through litigation can be de-escalated or resolved through assistance from the Ombudsman office. In the last year, my office has worked to address individual and systemic concerns ranging from timely access to medical care to solitary confinement, heating and cooling, fresh drinking water, religious practice, drug treatment programming, and incorrect calculations for prison release dates. To the extent we can be effective at resolving issues before they metastasize, the

incarcerated population and their families may feel less inclined to spend money on an attorney to bring a case to court (where they know it is likely to be dismissed).

Our Ombudsperson office includes several staff members who come from the Department of Corrections. They believe in the value of corrections to turn people's lives around. They've seen the system's shortcomings from the inside and came to the Ombudsperson office hoping to make the Department of Corrections better. Prison oversight does not have to be adversarial. Our office is a thought-partner for solving difficult system-wide problems. Incarcerated people are much more forthcoming with the Ombudsperson office than they are with correctional officers and administration. Our access to the people held in custody allows us to give quick and thorough feedback to facility and agency leaders. We are a key player helping the DOC enforce its own policies with staff, because we have eyes and ears on the prisons, and prison staff act differently when they're being monitored. We also regularly check in with the prison Commissioner to get feedback on how we're doing, how we can improve, and how to ensure our efforts are not overly disruptive to prison operations. Because we are an independent office, we can also authoritatively give credit to the Department for things they are doing right, correct the record when misinformation is spread about prison conditions, and defend decisions of the Department that may be unpopular or misunderstood by advocates and skeptical members of the public.

The effectiveness of an Ombudsperson office is anchored in credibility. If the office comes off as biased, its recommendations will be ignored. To be impactful, the office must base its findings in data, must give the DPSCS opportunities to correct initial findings that the office got wrong or misunderstood, and must be able to defend anything it ultimately reports. The value of an Ombudsperson's reports disappears if they end up being incorrect, which drives offices like mine to be thorough, diligent, and factual.

Lawmakers expanded the reach and mandate of our office in New Jersey in response to physical and sexual assaults at the state's only women's prison. The message to the public was: This won't happen again, not on our watch. Even absent a scandal, though, lawmakers benefit from oversight in a variety of ways. When they pass laws impacting prison services or programming, they have a set of independent eyes in the Ombudsperson to determine whether those laws have been implemented. When constituents call with concerns about conditions in a prison facility, lawmakers can dispatch the Ombudsperson to look into the issue and follow up. The creation of an Ombudsperson office helps ensure that the performance metrics for a Department of Corrections are not limited to the number of people confined, released, and returned for new crimes, but include big questions of public interest: Are people in our state prisons safe? Are their health needs being addressed? Do they have meaningful access to their loved ones? And are they engaged in purposeful activity to ensure they come out better than they went in?

Sometimes when something is going wrong in prison, it was merely overlooked in the hustle and bustle of running a secure facility. Sometimes it comes about because of systemic problems like under-staffing or lack of communication between siloed offices. Importantly, there are also times when the issue reflects an abuse of power. An independent Ombudsperson office can help the Department catch small things that fall through the cracks, draw attention to systemic issues that impact everyone behind bars, and also access people held in even the most isolated parts of state prisons to ensure they are not being harmed or treated unfairly.

Some have argued that an Ombudsperson office is redundant if a corrections department already has a grievance system. This argument misunderstands the distinction between internal management tools

and external oversight. Unlike a grievance system, an Ombudsperson office is available to families with incarcerated loved ones. People who can't write or who can't speak English may not be able to file a grievance, but they can speak with a staff person at the Ombudsperson office. A grievance system is not public—it plays no role in informing lawmakers and community members about conditions inside state prisons. A grievance system is also quite slow. An Ombudsperson can respond in real time to an urgent situation like a water main break or the heat going out in winter, while a grievance may not get a response for 30 days, at which point the issue may be moot.

When a corrections department reviews a grievance, its response prioritizes security. An Ombudsperson office often looks at the same set of circumstances through the lens of inhumane conditions and protecting people from harm. In New Jersey, for example, the Department of Corrections prohibited bottled water in their disciplinary housing units as a measure to prevent incarcerated people from throwing liquids on staff. The Ombudsperson office viewed the issue through the lens of the health and wellbeing of the incarcerated people, making the case that especially in the heat of the summer, people need access to clean drinking water. A grievance system will only ask whether policy is being followed. An Ombudsperson office will also ask whether a policy should change.

Even when a grievance system includes an appeal process to an outside entity like the circuit court, this type of process can't provide the same value as an Ombudsperson office that has access to the prisons to see and confirm conditions, talk to staff and incarcerated people on the housing unit, look at documentation and video footage, ask follow-up questions, and investigate. A court reviewing a grievance appeal will rely heavily on the jail warden or prison commissioner, and isn't capable of doing its own on-site fact-finding. Other types of oversight are valuable, but also don't replace an Ombudsperson's ability to inspect facilities and investigate complaints. An audit for accreditation purposes follows a check-list and includes no process for reviewing complaints from those in custody. A court-appointed monitor has a narrow and time-limited oversight role. If their purview is use of force at a particular facility, they can't also look into programming, family visits, food quality, or living conditions at other facilities. New Jersey has a court-appointed monitor for sexual victimization at the women's prison. She makes an in-person visit twice a year and only monitors that issue. Meanwhile the Ombudsperson office receives a high volume of concerns from the same facility about medical care, discipline, and out-of-cell time—issues that are excluded from the court-appointed monitor's purview.

Oversight allows for access and understanding among people who might otherwise feel suspicious, angry, and in the dark about what's happening in our state prisons. By creating transparency, it builds credibility and public trust for this large and powerful arena of state government. I encourage you to support **HB 297** to establish a Corrections Ombudsman office in Maryland. Please feel free to contact me if I can help in any way.

Best,

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