

Members of the Joint Standing Committee on Criminal Justice and Public Safety

Maine State Legislature

Augusta, Maine

Re: Support for LD 1962 – An Act to Establish the Corrections Ombudsman**

Dear Committee Members,

I am writing in unequivocal support of LD 1962, An Act to Establish the Corrections Ombudsman. As a family member of someone currently incarcerated in a Maine Department of Corrections facility, I write from the perspective of someone who has witnessed the failures of the current system. The current complaint and review framework does not provide incarcerated people with any meaningful or independent path to accountability. The Department of Corrections controls every stage of review, investigation, appeal, and final decision-making. When an agency investigates itself and answers only to itself, oversight becomes an illusion.

I have reviewed Deputy Commissioner Cantillo's testimony in opposition to this bill. He lists numerous grievance, appeal, and reporting processes and claims they are sufficient. What his testimony fails to acknowledge is that every process cited is controlled, reviewed, and decided by the Department of Corrections itself. Grievances are decided by DOC staff and appealed up the DOC chain of command. Discipline and classification appeals remain internal. Complaints against staff are investigated by the DOC's own Office of Professional Review. Resident Advisory Councils have no independent authority. These are not oversight mechanisms. They are internal management tools. When the DOC investigates the DOC, evaluates its own decisions, and determines whether its own actions were appropriate, the outcome is predetermined.

I have personally witnessed how this self-review system fails my loved one. When the grievance coordinator works for the same administration as the staff member being grieved, when the appeals officer answers to the same chain of command, and when the final decision-maker has institutional loyalty to the Department, the process becomes little more than a formality. The system does what it wants because there is no one with real authority to tell it otherwise.

The Deputy Commissioner cites court intervention as an alternative. For most incarcerated people, this is not a realistic option. They generally lack legal representation, financial resources, access to evidence, and the ability to navigate complex procedural rules. Presenting litigation as a remedy ignores the practical barriers that make court access largely theoretical for the vast majority of incarcerated individuals. Furthermore, by the time a case works through the courts (if it ever does), the harm has often already occurred, and the systemic problem continues uncorrected.

The testimony never explains why independence itself is unacceptable. It avoids the central question before the Legislature: why should the Department of Corrections be the final authority over complaints concerning its own conduct? Self-review is structurally biased and incompatible with accountability. The Department's vehement opposition raises serious questions. Why does the DOC want ultimate power over its residents without external scrutiny? Why are they so resistant to having their decisions reviewed by someone who does not answer to the Commissioner? If the Department's processes are truly as "robust" as claimed, independent oversight would only validate their work. Are they hiding something? Why are they afraid?

It is worth noting that this bill is not just about incarcerated people. The Ombudsman would also receive and investigate complaints from correctional staff. Staff members face their

own challenges: unsafe working conditions, inadequate support, management decisions that compromise their safety, and retaliation for raising concerns. Staff complaints currently go through the same internal DOC channels. An independent Ombudsman would provide correctional officers and other employees with a confidential avenue to report problems without fear of career consequences. The Department's opposition to this protection for its own workforce is telling.

The testimony completely ignores the risk of retaliation. It does not address how incarcerated people can safely report abuse or misconduct when the same agency controls housing, discipline, classification, and daily conditions of confinement. Fear of retaliation is rational and pervasive in correctional settings. Independent, confidential reporting exists precisely to address this reality. The bill's prohibition on retaliation is essential, but the Deputy Commissioner's testimony does not even acknowledge this concern. The silence is not accidental – addressing retaliation would require acknowledging that it occurs.

No data is provided to support the claim that existing processes function well. There are no resolution rates, no outcomes demonstrating corrective action, no independent audits, and no examples of meaningful systemic reform resulting from internal grievances. Assertions of effectiveness without evidence do not justify rejecting independent oversight. If the internal system works so well, the Department should welcome the opportunity to prove it through transparent, independent review. The absence of data suggests they cannot.

The testimony fails to engage with systemic issues. Internal grievance systems are designed for individual complaints, not to identify patterns, cultural failures, or institutional misconduct. The central purpose of an ombudsman is systemic review and reporting. The bill requires the Ombudsman to identify systemic issues, publish annual reports on conditions of

confinement, track deaths, document legal costs, and summarize grievances by subject matter and resolution. These transparency measures are what truly threaten the Department's unchecked authority. Comparing internal processes to independent oversight fundamentally misunderstands the role of the office proposed in this bill.

The testimony repeatedly conflates oversight with operational control. Independent review does not mean managing facilities or overruling day-to-day decisions. It means investigation, reporting, and recommendations. The Ombudsman would not have operational authority over the Department but would provide accountability when internal processes fail. The bill explicitly requires the Ombudsman to make good faith efforts to provide the Department an opportunity to investigate and respond before making matters public. This is collaborative oversight, not hostile interference. Oversight strengthens institutions by identifying failures before they escalate. It does not undermine safety or discretion; it ensures that discretion is exercised lawfully and humanely.

Security concerns are raised selectively. The Deputy Commissioner emphasizes contraband risks related to confidential correspondence while ignoring that confidential communication already exists with courts and attorneys and is handled securely. The suggestion that correspondence to the Ombudsman should be opened and inspected reveals the Department's desire to monitor and control even communications meant to check its power. If the Department can read complaints before they reach the Ombudsman, the independence of the office is compromised from the start. Safety is invoked only where transparency would increase, suggesting that oversight is being treated as a threat rather than a safeguard. If necessary, screening procedures can be developed that preserve confidentiality while addressing legitimate security concerns.

The Deputy Commissioner raises concerns about potential conflicts with existing statutes governing employee discipline and confidentiality. These are legitimate technical issues that can and should be addressed through amendments during the legislative process. They are not reasons to reject the fundamental concept of independent oversight. Legislative drafting routinely reconciles new provisions with existing law. The solution is to refine the bill, not to abandon it. The Department's position (that any implementation challenge justifies total opposition) is a transparent attempt to kill oversight entirely rather than work collaboratively toward effective reform.

The testimony makes no reference to public trust, legitimacy, or democratic accountability. The Department of Corrections exercises extraordinary power over human beings on behalf of the public. Independent oversight exists to ensure that this power is exercised lawfully, humanely, and in a manner worthy of public confidence. The people of Maine have a right to know how their corrections system operates, how their tax dollars are spent on settlements and litigation, and whether conditions of confinement meet basic standards. The Ombudsman's annual reporting requirements would provide that transparency. The Department's resistance to public accountability should concern every legislator and every Maine citizen.

The testimony ignores national standards and best practices. Corrections ombudsmen and independent oversight bodies exist in many jurisdictions and are widely recognized as sound governance tools. States including California, Washington, Minnesota, and others have successfully implemented similar offices. The absence of any acknowledgment of these models isolates the Maine DOC as defending an unusually closed system of self-regulation. States that have implemented similar offices have documented improvements in conditions, reductions in

litigation costs, enhanced staff morale, and strengthened public trust. Maine should learn from these proven successes, not pretend they do not exist.

The Deputy Commissioner raises concerns about costs but provides no analysis or comparison. The bill allocates between 0.13% and 0.16% of the Department's annual appropriation, a modest investment that could prevent far more expensive problems. Effective oversight can reduce costly litigation, prevent civil rights violations that lead to damages and settlements, improve staff retention and morale, and enhance rehabilitation outcomes that reduce recidivism. The return on investment in accountability is substantial and well-documented in other jurisdictions. The cost argument is particularly weak when the Department cannot provide data on how much it currently spends defending or settling lawsuits that independent oversight might prevent.

What the Department's testimony does not mention is also revealing. There is no discussion of current challenges within Maine's corrections system, no acknowledgment of any areas needing improvement, and no recognition that problems exist. This posture, that everything is functioning well and oversight is unnecessary, is not credible. Every large institution has areas requiring reform. The unwillingness to acknowledge this basic reality undermines the Department's credibility and reinforces the need for external accountability.

The opposition to this bill ultimately reveals the core issue. Independent oversight threatens only unchecked authority. A system that is operating fairly, lawfully, and humanely would welcome outside review. Resistance to independence is telling. The Department's argument reduces to: trust us to police ourselves. That is not how democratic institutions function, and it is not how the exercise of state power over vulnerable populations should be

governed. Every branch of Maine government has checks and balances. Why should corrections be exempt?

LD 1962 does not weaken the corrections system. It introduces balance, credibility, and accountability. It provides a mechanism that protects incarcerated people, supports correctional staff, informs legislators, and strengthens public trust. The bill includes thoughtful safeguards: the requirement that the Ombudsman work with the Department before making concerns public, limitations on what can be investigated, protection of attorney-client privilege and emergency procedures, and a structured appointment process with legislative review. This is not hostile oversight – it is responsible governance. Maine has an opportunity to adopt a proven model of corrections oversight and to demonstrate that accountability matters. I strongly urge you to support LD 1962 and to reject the Department of Corrections' opposition. Independent oversight is not optional. It is essential.

Thank you for your time and consideration.

Respectfully,

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Anonymous FOR PROTECTION

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LD 1962

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WOMEN I SERVE THROUGHOUT MAINE