



DEPARTMENT OF CORRECTIONS OMBUDS STUDY

DLG Strategic, LLC

Report to study the need for, and feasibility of, establishing an Office of Ombuds within the Virginia Department of Corrections.



Table of Contents

<u>TERMINOLOGY DEFINED</u>	3
<u>EXECUTIVE SUMMARY</u>	4
<u>INTRODUCTION</u>	6
<u>KEY FINDINGS</u>	22
<u>NEEDS ANALYSIS</u>	39
<u>CONSIDERATIONS AND CONCLUSIONS</u>	48

TERMINOLOGY DEFINED

Definitions used within this document include:

- *Ombuds* – Neutral term used interchangeably with “Ombudsman” or “Ombudsperson”
- *Correctional Facilities* – Used interchangeably with “state prisons”
- *Jails* – References local and regional jails
- *Virginia Department of Corrections* – Noted as VADOC, the Department
- *DOC* – referencing Departments of Correction outside of Virginia
- *Incarcerated individual* – Used interchangeably with “Inmate” and “Offenders”
- *SB 1363* – Senate Bill No 1363, offered January 13, 2021, by Senator Marsden
- *HB 2325* -House Bill No 2325, offered January 22, 2021, by Delegate Hope
- *Corrections Oversight Committee* – Oversight body for Office of Ombuds as described in HB 2325
- *The Board* – Oversight body for Department of Corrections as described in SB 1363
- *Key Stakeholders* – Those individuals involved with either HB 2325 or SB 1363 or the institutions impacted by either bill
- *Complaints* – The first and second step in a grievance process, first verbally to staff and second in a written complaint form
- *Grievances* – An inmate’s formal complaint concerning an unresolved issue which has affected the inmate personally
- *Golden Key Access* – Ombuds right of free access at any time, unannounced
- *Founded* - The investigation determined that the inmate's claim is credible and there is an opportunity to assist the inmate
- *Unfounded* - The investigation determined that the inmate's claim is not credible, meaning staff can't offer any assistance
- *PREA* – Prison Rape Elimination Act
- *ACA* – American Correctional Association
- *BOLRJ* – Virginia Board of Local and Regional Jails
- *OSIG* – Office of the State Inspector General
- *ROC* - Regional Operations Chief
- *RA* - Regional Administrator
- *OSA* – Office Services Assistant

EXECUTIVE SUMMARY

Purpose

The purpose of the *Virginia Department of Corrections Ombuds Study* was to conduct a feasibility study for the establishment of an Office of Ombuds within the Virginia Department of Corrections (VADOC). DLG Strategic, LLC was contracted to do the study.

Considerations and Conclusions

Based on one-on-one interviews and information from five other ombuds programs, these items were repeated by multiple interviewees or were deemed significant by DLG Strategic.

- There was an overall agreement that the ombuds office should be neutral, an advocate for neither the VADOC nor the incarcerated individuals, but for fairness in general.
- There is a mostly polarized perspective concerning the need for an Office of Ombuds.
- The desire to have an independent office of ombuds was repeatedly addressed, along with repeated concern about credibility of the office if housed within the same department that is establishing the rules and actions being overseen.
- The current VADOC is nationally recognized and has created an ombuds structure with more institutional support than other state structures, which could provide an infrastructure upon which improvements could be built.
- The right staff and experience within an office of ombuds is perceived as an important factor. There is a perceived need to have people in place who have the experience and expertise necessary to handle the responsibilities of such an office.
- There is a question about the effectiveness of the current grievance process. The process is perceived as hard to understand, the timing is difficult to adhere to, and a large percentage of the grievances are determined “unfounded” or “ungrievable” even when the situation might have been perceived as a valid concern.
- None of the states profiled in this report currently have formal inspections as part of their ombuds office, although it does appear in legislation for New Jersey and Arizona. Further research would be required to determine the efficacy and cost of this additional responsibility.
- The cost and staffing of the state ombuds offices varied significantly from the VADOC Fiscal Impact estimated cost of HB 2325. It is worth noting that the expanded responsibility of formal inspections is not currently conducted by the other interviewed states.
- Success metrics supporting the efficacy of other ombuds offices were not determined, and state ombuds expressed frustration about the inability to define what success looks like for the office outside of the incarcerated individuals who they assisted directly.

INTRODUCTION

According to Chapter 552 of the Virginia Acts of Assembly,, 2021 Special Session I, Item 392, Paragraph G, a study was conducted on the impact of two bills if enacted.: [HB2325](#) (Hope) and [SB1363](#) (Marsden). The methodology used to conduct research included one-on-one interviews with other state ombuds, key stakeholders, representatives of social justice/civil rights organizations, and advocates for family of inmates/former and current inmates. Interview questions were based upon best practices in four states that have implemented a similar model as well as a national expert. Considered is the current VADOC ombuds structure, VADOC estimated fiscal impacts of both bills, and the current grievance process.

KEY FINDINGS

Based upon the interviews conducted with other state ombuds, key stakeholders, representatives of social justice/civil rights organizations, and advocates for family of inmates/former and current inmates, the top five responses were determined to form the content around which perceived benefits and perceived challenges are presented.

NEEDS ANALYSIS – COST AND STAFFING

Interviews with other state ombuds offices revealed cost and staffing information that informed this study’s cost and staffing options. The cost and staffing information shared by the states ombuds varied from the VADOC fiscal impact statements. Based upon all information shared, four possible cost and staffing options are provided.

APPENDIX

Provides more detail on the interview questions and responses, along with examples of other ombuds staff structures, and the complete fiscal impact breakdowns by VADOC.

INTRODUCTION

The language in Chapter 552 of the Virginia Acts of Assembly, 2021 Special Session I, Item 391, Paragraph G., reads as follows:

G. The Secretary of Public Safety and Homeland Security shall assess the need for, potential benefits and feasibility of implementing, and staffing and other associated costs of establishing an Office of the Ombudsman within the Department of Corrections. The Secretary shall identify the staffing and associated costs necessary for the Ombudsman to, at a minimum, (i) provide information to inmates and family members, DOC employees and contractors, and others regarding the rights of inmates; (ii) monitor the conditions of confinement; (iii) provide technical assistance to support inmate participation in self-advocacy; (iv) provide technical assistance to local governments in the creation of correctional facility oversight bodies; (v) establish a statewide uniform reporting system to collect and analyze data related to complaints received by the Department of Corrections; (vi) gather stakeholder inputs into the Office of the Ombudsman's activities and priorities; (vii) inspect each state correctional facility at least once every three years, and at least once every year for maximum security facilities; (viii) publicly provide facility inspection reports; (ix) conduct investigations of complaints made by inmates, family members, and advocates; and (x) the efficacy of expanding alternative methods of oversight to include the direct oversight of the Department by the Board of Local and Regional Jails or similar entity. In conducting this assessment, the Secretary shall consult with representatives of social justice or civil rights organizations, advocates for inmates or the families of inmates, national experts or similar ombudsmen and correctional oversight offices and programs in other states, and other stakeholders identified by the Secretary. The Secretary shall develop a report of the findings and shall provide such report detailing the findings to the Chairs of the House Public Safety, House Appropriations, Senate Judiciary, and Senate Finance and Appropriations Committees no later than December 1, 2021.

During the 2021 General Assembly session, two bills were proposed different approaches to oversight of the VADOC:

- [HB 2325](#) (Delegate Hope) – Establishing an Office of Ombuds
- [SB 1363](#) (Senator Marsden) – Establishing a Board of Corrections

DLG Strategic, LLC, (DLG) was contracted to conduct this study and address the following Statement of Needs:

- 1) Background information of existing oversight over the state facilities and local jails and any safety considerations. Additionally, information on other states' cost and experience with the oversight contemplated by HB 2325 and SB 1363.

- 2) Required staffing and associated costs for the Ombudsman to, at a minimum, provide the following:
 - a. provide information to inmates and family members, DOC employees and contractors, and others regarding the rights of inmates;
 - b. monitor the conditions of confinement;
 - c. provide technical assistance to support inmate participation in self-advocacy;
 - d. provide technical assistance to local governments in the creation of correctional facility oversight bodies;
 - e. establish a statewide uniform reporting system to collect and analyze data related to complaints received by the Department of Corrections;
 - f. gather stakeholder inputs into the Office of the Ombudsman's activities and priorities;
 - g. inspect each state correctional facility at least once every three years, and at least once every year for maximum security facilities;
 - h. publicly provide facility inspection reports;
 - i. conduct investigations of complaints made by inmates, family members, and advocates;
 - j. the efficacy of expanding alternative methods of oversight to include the direct oversight of the Department by the Board of Local and Regional Jails or similar entity.

- 3) Consult with representatives of social justice or civil rights organizations, advocates for inmates or the families of inmates, national experts or similar ombudsmen and correctional oversight offices and programs in other states, and other stakeholders identified by the Secretary and make any findings which shall be included in the report.

METHODOLOGY

Based upon the Statement of Needs, DLG conducted research and interviews of key stakeholders, representatives of social justice/civil rights organizations, advocates for/family of inmates/former and current Inmates, and ombuds/acting ombuds of other states. This included:

- Twenty one-on-one interviews with -
 - Eight Key Stakeholders, including:
 - Bill patrons
 - Board of Local and Regional Jails (BOLRJ) representatives
 - Representative of the Sheriff's Association

- Six representatives of social justice/civil rights organizations, including:
 - NAACP
 - FAMM
 - National ombuds expert
 - ACLU
 - Interfaith for Human Actions
 - Humanization Project
- Six advocates for/family of inmates/former and current inmates
 - Two family members
 - Two formerly incarcerated individuals
 - Two currently incarcerated individuals
- Four one-on-one interviews with other Ombuds
 - Washington State (Ombuds – Joanna Carnes)
 - Michigan (Ombuds – Keith Barber)
 - Iowa (Acting Ombuds – Bert Dalmer)
 - New Jersey (Acting Ombuds – Melissa Matthews, John Blakeslee)
 - Arizona (Legislation Only)

In addition, DLG conducted extensive research to provide additional background, including:

- Discussions with the Virginia Department of Corrections (VADOC) team
- Discussions with current VADOC ombuds leaders
- Review of state ombuds websites, annual reports, white papers, articles, and blogs

Note:

Interviews with current state ombuds programs were conducted to determine the services being delivered, the cost, and the value that those services offer. States were selected based upon their similarity to the state of Virginia's prison population, as well as upon recommendations by a national expert.

While Arizona was included in our study, this did not include an ombuds interview. There is an Arizona Ombudsman Citizens' Aide office within its DOC that serves citizens only, and an Arizona Department of Corrections Constituent Services Office/Inmate Family and Friends Liaison that can be contacted via phone or email for families of inmates in an Arizona state prison facility, however, there is not, currently, an Office of Ombuds for the Arizona Department of Corrections. Proposed legislation in 2021 to formally establish an office of the ombuds did not pass, but the information within that legislation was determined valuable as a resource based upon its thoughtful approach.

As New Jersey's Ombuds had recently retired, two of the assistant ombuds who have extensive experience in the office were interviewed. We interviewed an acting Ombuds in Iowa with more than 30 years' experience in the office. Overall, the state conversations were thoughtful and reinforced by each state's 2020 annual reports.

Interview Questions:

Conducted as open-ended questions, the interviews revealed a variety of topics. To note and prioritize repeated topics, the responses were reviewed, broken down into key topics, "tick-marked" for agreement, and turned into a percentage based upon the number of those in agreement divided by the total number of interviewees.

DLG would like to thank all interviewees for their time, commitment, thoughtful responses, and information shared. DLG documented more than 35 hours of conversation, and each interaction was valued and appreciated. The approach included open-ended questions supported by legislation that established the ombuds office and annual reports. Below are the questions used for each key group.

Key Stakeholders

- *From your knowledge base, what does an ombuds do?*
- *What outcome do you want, what are you observing, and what gap needs to be filled?*
- *From your perspective, what value would the Office of the Ombuds provide the corrections system?*
- *From your perspective, how might an Office of the Ombuds be a detriment to those impacted or involved?*
- *What do you feel must be in place to secure the success of the ombuds?*
- *How might the services of the Office of the Ombuds be redundant?*
- *Should the office handle only inmate complaints or should it also handle complaints from Corrections Officers and other facility personnel?*

Inmates/Family of Inmates/Social Justice/Civil Rights

Key Stakeholders questions plus:

- *Based upon your knowledge, what process is currently followed if you have a complaint or grievance? What have you found effective in this process? What has not been effective?*
- *Do you think the office should conduct inspections of the facilities?*

State Ombuds

- *To whom does the ombuds office report? To whom is it accountable?*
- *Does the mandate enable access to the resources needed in the organization?*
- *How is the success of the office measured?*
- *Are the economic, staffing, support and peer resources enough to sustain a successful office?*
- *How many full-time FTE's are employed?*

- *What is your current budget for the year?*
- *Do you handle complaints and/or inspections?*
- *How many complaints are handled each month? How many are founded vs. unfounded?*
- *How is fairness defined for the Office operations? Can you apply these principles and be impartial?*
- *Is there the ability to begin an ombuds process where there is an issue of unfairness, and where there might not have been a complainant?*
- *Is the Ombuds seen as an advocate for the fairness of the process, as opposed to an advocate for one of the parties in dispute?*
- *Are the decisions or recommendations made by the Ombuds reviewable by some other entity?*
- *Is there a Board for oversight?*
- *Is there a regular reporting process to the Governor? Are findings communicated to the public at any point?*

There were a variety of topics that came up repeatedly from the interviews as an area of focus and/or concern. The key findings will focus primarily on those topics which include the following:

- Independence/Authority of the Office of Ombuds
- Oversight of the VADOC and Office of Ombuds
- Ombuds key responsibilities
- Redundancies with Office of Ombuds

BACKGROUND

There have been growing discussions over the past decade between policymakers, practitioners and reform advocates concerning oversight over corrections. This issue goes back to the 1970s when prison riots captured the attention of lawmakers. Three of the states contacted for this study, Iowa, Michigan, and New Jersey, created their original ombuds offices during that decade.

In 1995, Congress passed the Prison Litigation Reform Act (PLRA) which placed several restrictions on the ability of prisoners to file lawsuits based on the conditions of their confinement. The Act sought to reduce frivolous litigation, allow correctional officials the ability to remedy problems before litigation, and lighten the caseload for courts handling prisoner litigation.

The PLRA *strict exhaustion requirement* requires that all prisoner's claims must be exhausted administratively (through the grievance process) before a lawsuit is even filed as exhaustion is not permitted while a suit is going on. Failure to do so can result in dismissal of a case. (ACLU, Know Your Rights: The Prison Litigation Reform Act, 2002) (Heskamp, The Prisoner's Ombudsman: Protecting Consitutional Rights and Fostering Justice in American Corrections, 2008)



Ombudsman Study DOC-22-005

As a result, advocates felt that litigation receded as an oversight method and created the need for a permanent independent oversight body.

According to Professor Michele Deitch, as stated in her article *“But Who Oversees the Overseers?”*, correctional oversight bodies are still relatively rare in the United States, and generally include a body over corrections and local/regional jails, or corrections only. Only 15 states plus the District of Columbia have established independent mechanisms for responding to complaints of incarcerated persons and/or for assessing or reporting on conditions of confinement. (Deitch, *But Who Oversees the Overseers? The status of Prison and Jail Oversight in the United States*)

Virginia Department of Corrections

The VADOC currently has a total of 42 institutions, including 26 major institutions, six work centers, eight field units, and two secure hospital units. Under the leadership of Director Harold Clarke, the VADOC has a 23.9% recidivism rate, second in the country only to South Carolina. In the past five years, Virginia has ranked either number one or number two in rate of recidivism.

Accreditation records are equally impressive. PREA began in 2014, and VADOC has achieved 100% compliance very year since, and is the first state correctional system to have PREA audits and pass them. Since 2018, Virginia has been recognized by the American Correctional Association (ACA) for audit compliance in all its Correctional Facilities and Probation and Parole Districts and was the recipient of the 2021 Golden Eagle Award. (VADOC, *Corrections Operations Administrator, 2021*)

However, even with the strength of the current system, there have been concerns about the lack of oversight, complaints about the effectiveness of the grievance process, and lawsuits. The lack of oversight has gained more significant attention due to a change made in 2011.

In Virginia, the Board of Corrections (BOC) was the key oversight body for the VADOC until 2011, when SB 1001 (Watkins) passed which struck the following language from Virginia Code, §53.1-5: *“Monitor the activities of the Department and its effectiveness in implementing the standards and goals of the Board.”* However, it did not address all corresponding parts of the code, which created confusion about the power and responsibilities of the BOC and VADOC. In 2020, SB 622 (Deeds) passed which cleaned up the code and made it clear that the BOC oversees local and regional jails. The legislation also changed the name to the *Board of Local and Regional Jails*. (SB622, billtrack50.com)

Board of Local and Regional Jails

The Board of Local and Regional Jails (BOLRJ) is made up of nine members who are appointed by the Governor and subject to confirmation by the General Assembly. The role of the BOLRJ is to establish standards and guidelines for local and regional jails that are designed to guarantee



Ombudsman Study DOC-22-005

the health, safety, and welfare of staff and offenders under its jurisdiction, with additional responsibilities that include:

- Developing and establishing operational and fiscal standards governing the operation of local and regional jails;
- Creating rules and regulations that may be necessary to implement the standards that govern local and regional jails;
- Developing programs that educate citizens and bring about public support for the activities of the VADOC;
- The review of inmate deaths that occur in any local or regional jail;
- Establishing minimum standards for health care services, including medical, dental, pharmaceutical, and behavioral health services in local and regional jails.

Even with the clarification created around the responsibilities of the BOLRJ, the absence of oversight for the corrections facilities drove continued conversation. (<https://bolrj.virginia.gov/>)

HB 2325 and SB 1363

During the 2021 General Assembly session, two bills were introduced with different approaches to oversight over the VADOC:

- HB 2325, offered by Delegate Patrick Hope with a focus on complaints, investigations, and inspections, and
- SB 1363, offered by Senator Dave Marsden with a focus on budgetary actions and policy.

HB 2325 Summary (LIS.Va.Gov)

HB 2325 creates the Office of the Department of Corrections Ombudsman and includes the following duties and powers of the Office: (i) providing information, as appropriate, to inmates, family members, representatives of inmates, Department of Corrections employees and contractors, and others regarding the rights of inmates; (ii) monitoring conditions of confinement and assessing compliance with applicable federal, state, and local rules, regulations, policies, and best practices as related to the health, safety, welfare, and rehabilitation of inmates; (iii) providing technical assistance to support inmate participation in self-advocacy; (iv) providing technical assistance to local governments in the creation of correctional facility oversight bodies, as requested; (v) establishing a statewide uniform reporting system to collect and analyze data related to complaints received by the Department and data related to (a) deaths, suicides, and suicide attempts in custody; (b) physical and sexual assaults in custody; (c) the number of inmates placed in solitary confinement; (d) the number of facility lockdowns lasting longer than 24 hours; (e) the number of staff vacancies at each facility; (f) the inmate-to-staff ratios at each facility; (g) staff tenure and turnover; and (h) the number of in-person visits to inmates that were made and denied at each facility; (vi) establishing procedures to gather stakeholder input into the Office's activities and priorities,



**Ombudsman Study
DOC-22-005**

which must include, at a minimum, an annual 30-day period for receipt of and Office response to public comment; (vii) inspecting each state correctional facility at least once every three years and at least once every year for any maximum security facility and any facility where the Office has found cause for more frequent inspection or monitoring; and (viii) issuing publicly periodic facility inspection reports and an annual report with recommendations on the state correctional facilities and a summary of data and recommendations arising from any complaints investigated and resolved. It also authorizes the Office to conduct inspections of all state correctional facilities investigations of complaints made by inmates, family members or friends, and advocates. Additionally, the bill establishes the Corrections Oversight Committee consisting of 11 members who are responsible for selecting the VADOC Ombudsman.

VADOC on Fiscal Impact of HB 2325

A cost estimate was completed by the VADOC showing the possible fiscal impact of HB 2325 (see Appendix for full breakdown). Costs would be based upon the assumption of the ombuds staff and needs. To sustain an effective Office of Ombuds that meets with the VADOC nationally recognized standards, the VADOC determined that FTE’s and cost would need to be in place, both in the Office of Ombuds as well as within the VADOC to ensure effective support, including:

- Correspondence, grievance, and compliance functions for the new Department of Corrections Office of Ombuds would need to include one supervisor and three direct reports to coincide with the three regions of the Department of Corrections
- The non-personal services would address the new agency costs of an office lease, IT purchases, specialized contracts, vehicles, travel/per diem, office furniture equipment, etc.
- 26 liaisons positions at each of the major facility locations as well as two subject matter (HR/Data) liaisons at Richmond headquarters. The 26 Institutional Liaisons would manage any task associated with the new Ombuds agency.
- Overtime for correctional officers when ombuds agency staff or companion oversight committee members visit any correctional facility.
- Various IT costs associated requirements.

FISCAL IMPACT OF HB2325

Department of Corrections Ombudsman		
Function	FTE	Cost
Correspondence/Grievance Section	10	\$705,659
IT	4	\$418,183
Compliance	10	\$833,110
Policy and Procedures	4	\$349,935
Accounting and Procurement	6	\$442,101
Administrative Support	8	\$439,105
Non-Personal Services		\$1,300,000
	<u>42</u>	<u>\$4,488,093</u>





Department of Corrections		
Function	FTE	Cost
Security		\$510,533
DOC Institutional Liaisons	26	\$3,002,912
IT Costs (\$1.84M one time)		\$2,510,800
HQ Data Liaison	1	\$102,892
HQ HR Liaison	1	\$102,892
DOC Medical Costs		Indeterminate
	28	6,230,029
Total Fiscal Impact Year 1	70	\$10,718,122
Total Fiscal Impact Year 2	70	\$8,876,522

SB 1363 Summary (LIS.Va.Gov)

With a focus on budgetary actions and policy, SB 1363 does not address handling complaints or inspection, however, it does address auditing for minimum standards of health care, review of accreditation status, and a standardized quarterly continuous quality improvement report.

SB 1363 took the approach of restoring the BOLRJ’s oversight of the state correctional facilities with the authority to: (i) ensure the development of long-range policies, programs, and plans for corrections services provided at the state and local levels; (ii) review and comment on all budgets and requests for appropriations for the Department of Corrections (the Department) prior to submission to the Governor and on all applications for federal funds, (iii) monitor the activities of the Department and its effectiveness in implementing the standards and goals of the Board. The bill expands the Board from nine to 14 members with specific requirements for membership. It also expands the powers and duties of the Board to include establishing operational and fiscal standards, promulgating rules and regulations, implementing policies and procedures for reviewing inmate deaths, and establishing minimum standards for health care services for state correctional facilities. Additionally, the bill provides the Board the authority to review and approve the content and frequency of correctional officer training programs provided by the Department; to collect and review information on disciplinary practices and trends in state, local, regional, and community correctional facilities and, as appropriate, adopt rules and regulations to improve disciplinary practices.

The Board, as proposed in the bill, would oversee the state correctional facilities as well as the local and regional jails.





Background - VADOC on Fiscal Impact of SB 1363

A cost breakout was completed by the VADOC showing the possible fiscal impact of SB 1363 and the establishment of *The Board*.

Based upon The Board membership, as well as the standard for which they are responsible, the VADOC carefully considered a staff of people and subject matter experts who could develop and implement those standards. Costs were based upon the staff and subject matter experts enumerated by SB 1363 and include the following regional experts (per state institution, CCAP and jails):

- One physician and one dentist to ensure minimum healthcare standards are supported,
- One psychiatrist and one psychologist to ensure mental health standards are supported,
- Two regional administrators for State Institutions and two regional administrators for CCAP & Jails to support all administrative needs.

The estimated total fiscal impact was determined by mirroring the current VADOC ombuds structure while determining how best to maintain the process and standards in place.

Board of Local and Regional Jails		
Function	FTE	Cost
*Paid Board Members	8	\$923,937
Regional Experts	24	\$3,289,308
Policy	7	\$910,124
Financial	8	\$664,604
Monitoring	4	\$528,243
Administrative Support	2	\$111,872
**Non-Personal Services		\$1,000,000
	53	\$7,428,087

**The 8 paid board members assumes that the following, appointed members will be salaried appointees as described in item 1 of the legislation:*

- One former attorney for the Commonwealth*
- One mental health professional*
- One former defense attorney*
- One former inmate of a state correctional facility*
- One former correctional officer*
- One former sheriff*
- One former regional jail superintendent*
- One representative of an organization that advocates for prisoner rights*



****Non-personal service:** Assumes one Executive Secretary and one OSA are included in the \$1,000,000 in non-personal services funding. Office location is assumed to be located within DOC HQ. The non-personal services amount includes funding to support the six regional representatives of the Board's travel expenses. These six board positions are selected based upon zip code, therefore, it is assumed that these would be unpaid positions who would receive per diem reimbursement when called upon related to an issue impacting a facility/jail in their zip code.

The Policy function would mirror the VADOC with one Regional Operations Chief (ROC) and three Regional Administrators (RA), including 3 RA's for state facilities and 3 for jails. This function would review, track and present for the Board's approval all VADOC and Jail policies and procedures.

The Financial function would include a Fiscal Director, Grant Specialist, three analysts (budget, jail facility and state facility), one buyer, one accountant and one fiscal tech. The function would review and comment on all budgets and requests for appropriation prior to submission to the Governor, review all federal grant applications, and maintain fiscal operations.

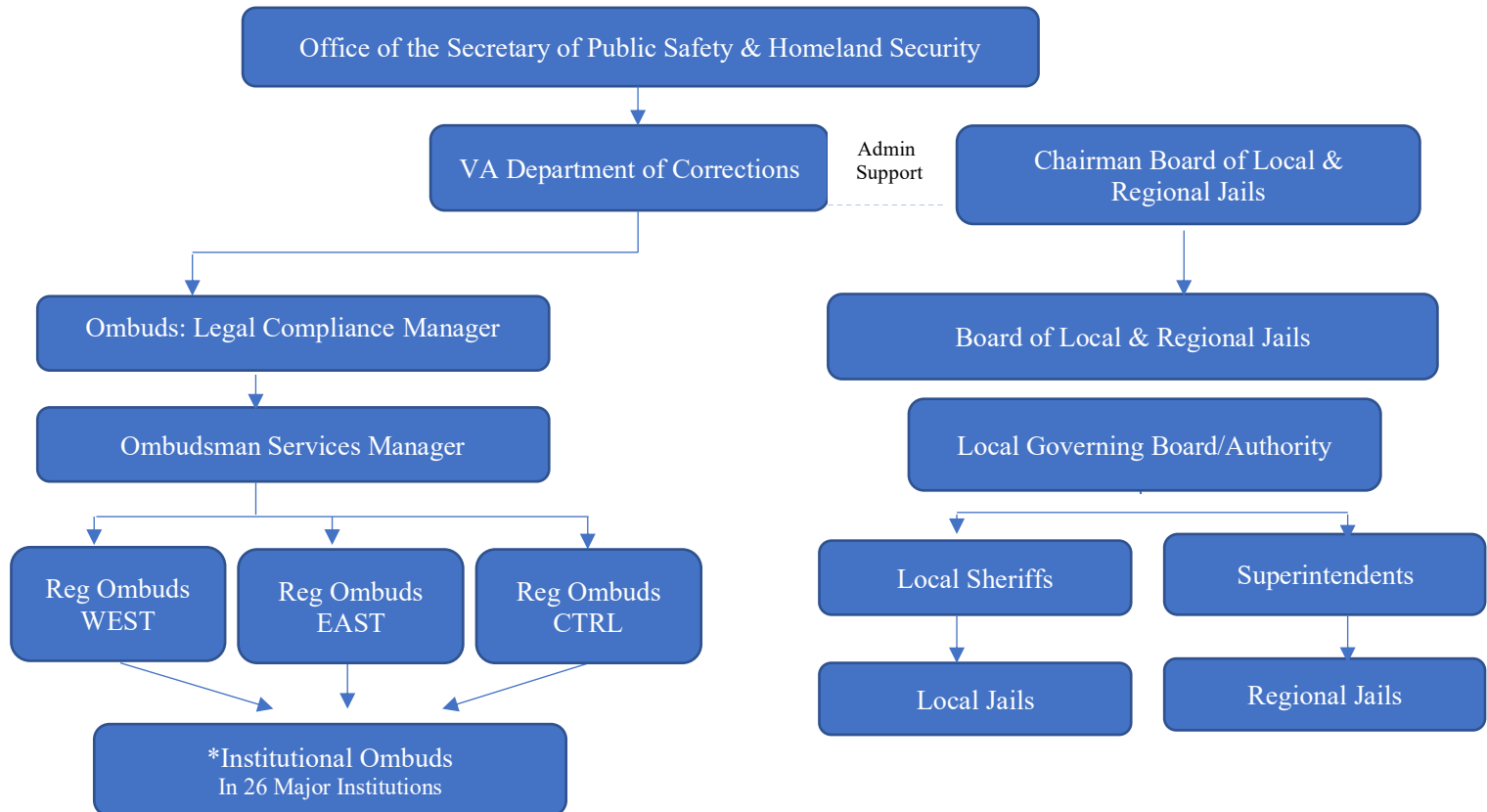
The Monitoring function would examine activities of the VADOC and the effectiveness in implementing the standards and goals of The Board (1 ROC with 3 RA's). This assumes one Executive Secretary and one Office Services Assistant (OSA) plus non-personal services funding location, travel, and per diem reimbursements.

CURRENT OVERSIGHT OF VADOC

The VADOC established the Ombudsman Services Manager on March 6, 1977, per the Prison Management Information System (PMIS). The first known policy, *Inmate Grievance Procedure*, was effective March 31, 1977, according to the current VADOC Policy and Initiatives Director. The following position descriptions are based upon conversations with the current Ombuds Service Manager and the Virginia Department of Corrections Employee Work Profile. (VADOC Human Resources)

Organizational Ombuds Objective: *The Ombudsman Services Unit provides an administrative process for resolving offender issues and complaints through fair, prompt decisions, and action in response to complaints and grievances from offenders incarcerated in Department of Correction Institutions.*

The structure is currently set up as follows, with the Board of Local & Regional Jails as a separate structure since 2011:



**One Institutional Ombuds per Major Institution*

Current VADOC Ombuds Staff (VADOC Ombuds Services Manager, 2021) (VADOC, Human Resources, 2021)

Descriptions of each of the following positions within the current VADOC ombuds structure are based on discussions with the current Legal Compliance Manager and Ombuds Services Manager, as well as job descriptions provided by human resources:

Legal Compliance Manager: The Legal Compliance Manager is an attorney who supervises the Ombudsman Services Manager and handles disciplinary issues and Level 3 responses (see *VADOC Grievance Metrics* for definition of levels).

Ombuds Services Manager: Supervises Regional Ombuds directly and drafts responses to grievances, researches inquiries and drafts responses to inmates who believe the process may not have been handled correctly, and ensures complaints and grievances were handled fairly and that a resolution was received. Also handles any inmate family member complaints forwarded from the VADOC Correspondent Unit, visits facilities to ensure they are complying



Ombudsman Study DOC-22-005

with the grievance process as needed by checking to ensure they have updated forms and those forms are accessible and ensures that the Regional Ombuds contact information is posted in housing units. Monitors database to ensure written complaints are completed in a timely manner. Completes quarterly reports for Legal Compliance Manager on Level 1 and Level 2 responses to grievances.

Regional Ombuds: The Regional Ombuds is responsible for monitoring implementation of the grievance procedures at the institutional and regional levels, for reviewing Level I grievances to ensure compliance with those procedures, and for the investigation and preparation of Level II appeals for the Regional Administrator's signature.

Current structure is as follows:

- West – 3 Regional Ombuds
- Central – 2 Regional Ombuds
- East – 2 Regional Ombuds

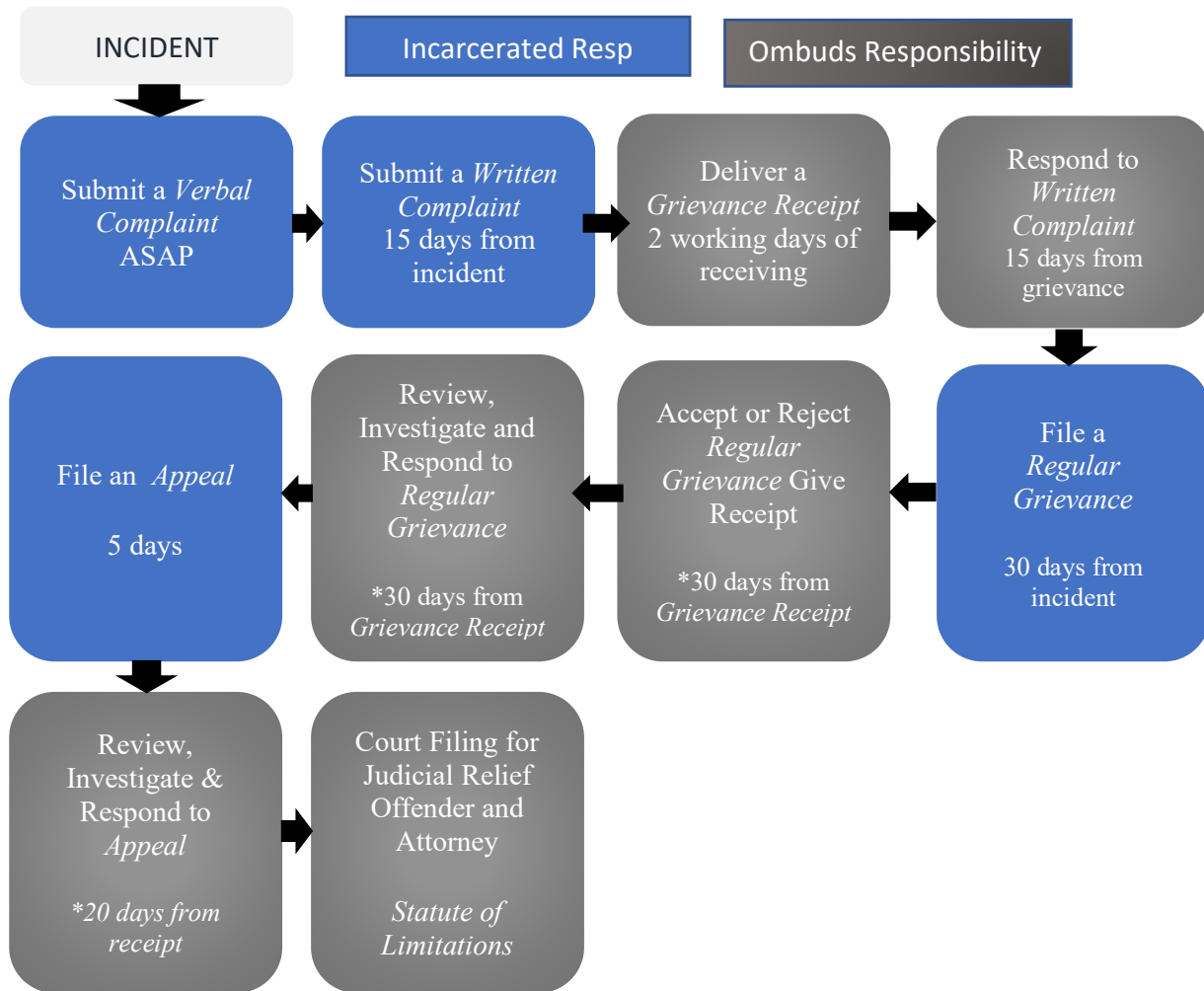
Institutional Ombuds: This position (Work Title "Offender Grievance Coordinator") is responsible for ensuring institutional compliance with the *Offender Grievance Procedure*, and is responsible for the daily functions of the Grievance Office such as processing and logging all informal complaints and offender grievances, ensuring offenders receive an appropriate response to their issues within the mandated time frame, thoroughly investigating all complaints and providing a detailed and accurate response to offender grievances, training and advising the alternate grievance coordinator, advising the Operations Manager of any allegations of staff misconduct or failure of staff to comply with the *Offender Grievance Procedure*.

Current structure is one Institutional Ombuds within each major institution (26 total).

Current Grievance Process (VADOC Ombuds Services Manager)

The current grievance process is administered manually (all written forms submitted on paper and transferred to appropriate recipients by mail), then input into the CORIS system by the Regional Ombuds or the Ombuds Services Manager and involves the following terminology:

- *Verbal Complaint*: The first step in the informal complaint process in which the inmate makes a verbal complaint to staff.
- *Written Complaint*: The second step in the informal complaint process in which the inmate submits their issue in writing on a Written Complaint form.
- *Grievance*: An inmate's formal complaint concerning an unresolved issue which has affected the inmate personally.



**30 additional days allowed for an Authorized Continuance*

VADOC Grievance Metrics

The grievance metrics report delivered by the Ombuds Services Manager is separated into three Levels of responses:

Level 1 Response

Once an inmate has submitted a *Written Complaint* and he/she is not satisfied, the inmate can submit a *Regular Grievance* within 30 days of the original incident or discovery of the incident. The Institutional Ombuds prepares the Level I Response for the Facility Unit Head's (Warden/Superintendent) signature.



Level 2 Response

If the inmate is not satisfied with the Level I Response, the inmate has 5 days to submit an appeal to the Regional Administrator. The Regional Ombuds prepares the response for the Regional Administrator signature. This is usually the final level of appeal for the inmate.

Level 3 Response

If the inmate is not satisfied with a Level I Response concerning actions or decisions of Offender Management Services (time computation, detainers, classification decisions), Health Services and Mental Health Services (medical, dental and mental health issues), Education (education and vocational issues) and Operations (substance or interpretation of VADOC Operating Procedure and decisions of Publication Review and Faith Review Committees), the Director of Offender Management Services, the Health Services Director, the Superintendent of Education or the Chief of Operations will provide a response. The Ombuds Services Manager prepares Level III responses for the Chief of Operations’ signature. This then becomes the final level of appeal for the inmate.

Founded – The investigation determined that the inmate’s claim is credible and there is an opportunity to assist the inmate.

Unfounded – The investigation determined that the inmate’s claim is not credible, meaning staff can’t offer any assistance.

The current grievance process shows receipt of grievances in 2021 as follows, based upon an estimate determined by taking the first two quarters that were provided by the Ombuds Service Manager and doubling the total to get an approximate annual number:

Level 1	Level 1 Founded	% Founded	Level 2	Level 2 Founded	% Founded
2,928	306	10%	1,450	80	6%

(VADOC Ombuds Services Manager)

Current Cost of Department of Corrections VADOC Ombuds Structure

The cost below was determined by taking the average of each salary range provided by VADOC Human Resources, adding 35% for benefits based upon the Bureau of Labor Statistics percentage, and multiplied by the number of current positions. The Regional Ombuds includes three administrative positions in addition to the Regional Ombuds as delivered in the HR matrix that showed ten Regional Ombuds positions.





Ombuds	*Salary Range	**Average Salary + Benefits	Number of positions	TOTAL
Ombuds Services Mgr	\$51,770 - \$84,903	\$68,336 +\$23,917 = \$94,311	1	\$94,311
Regional Ombuds	\$39,627 – \$61,818	\$50,722 +17,752 =\$68,474	10	\$684,740
Institutional Ombuds	\$33,160 - \$51,730	\$42,445 +14,855 =\$57,300	26	\$1,489,800
TOTAL			37	\$2,268,851

* VADOC Human Resources

** Bureau of Labor Statistics, “Employer Costs for Employee Compensation”

These are personnel costs only, and do not include non-personal items such as offices, IT, travel, etc.



KEY FINDINGS

Twenty interviews revealed a series of patterns and repeated topics that formed the foundation of the key findings. Each interview was documented with responses to each question reduced to repeated topics. Once all responses within each question were noted, DLG Strategic ranked the responses according to:

- Frequency of response within the specific question category, with the percentages tied to the specific question, even if the same topic was mentioned under other question

Based upon responses to the questions below, the top four categories were determined as:

- 1) Independence/Authority
- 2) Oversight
- 3) Redundancies
- 4) Key Responsibilities

INTERVIEW QUESTIONS

Interview Question #1: From your knowledge base, what does an Ombuds do?

RESPONSE	% of TOTAL RESPONSES
Is fully independent and separate from VADOC	57%
Investigates grievances	57%
Handles grievances	53%
Addresses and responds to grievances	53%
Conducts inspections of facilities	53%

Interview Question #2: What outcome do you want, what are you observing, what gap needs to be filled?

RESPONSE	% of TOTAL RESPONSES
Grievance process needs to be clear and easier to use.	52%
Need more transparent reporting.	42%
Need oversight for VADOC with improved transparency	42%
Must have authority to do what is needed with complaints, investigations, and inspections.	32%
Golden Key Access to facilities	32%

Interview Question #3: From your perspective, what value would the Office of the Ombuds provide the corrections system?

RESPONSE	% of TOTAL RESPONSES
Provide oversight that is transparent.	47%
Need better mental health treatment and assessment.	47%
Provide unbiased, proactive public reporting.	26%
I don't think it would add any value.	21%
Must have inspections.	21%

Interview Question #4: From your perspective, how might an Office of the Ombuds be a detriment to those impacted or involved?

RESPONSE	% of TOTAL RESPONSES
Independence isn't there and Ombuds is seen as an arm of DOC	32%
If Ombuds doesn't have the authority and resources (staffing and funding) needed to succeed	32%
If the ombuds office is not set up with the right operating process and regulations.	26%
If the ombuds office tries to resume oversight over both corrections and local and regional jails.	21%
If there are no safeguards for confidentiality and retaliation occurs	21%

Interview Question #5: What do you feel must be in place to secure the success of the Ombuds?

RESPONSE	% of TOTAL RESPONSES
Must be independent and separate from VADOC	58%
Benefits will be derived from a credible ombuds system.	47%
Create oversight of the department backed by statutes and legislature.	42%
Must have real powers and authorities to investigate allegations by incarcerated and families.	42%
Reports on grievances and investigations must focus on meta-data and systemic themes	26%

Interview Question #6: How might the services of the Office of the Ombuds be redundant?

RESPONSE	% of TOTAL RESPONSES
I do not accept the premise of this question/do not think redundancy is an issue.	68%
The entire function would be redundant – have complaint function and inspections already.	32%

Interview Question #7: Should the office handle only inmate complaints or should it also handle complaints from Corrections Officers and other facility personnel?

RESPONSE	% of TOTAL RESPONSES
Incarcerated + Corrections Officers + Personnel	68%
Incarcerated Only	16%
Neither – this offering is redundant and unnecessary.	16%

1) KEY FINDING - INDEPENDENCE/AUTHORITY OF THE OFFICE OF OMBUDS

Perceived Benefits

The independence and neutrality of the Office of Ombuds came up as a response in six of seven questions. Several key benefits repeatedly mentioned by interviewees included:

- The success of an Office of Ombuds will be more secure if created outside of the department they are asked to oversee. 58% of respondents stressed that the office must be separate and independent of VADOC.
- Independence will ensure a level of trust with incarcerated individuals, their families, and advocates who currently question VADOC's ability to objectively oversee themselves.
- Independence will create a greater level of confidence that complaints and grievances will be objectively heard and fairly handled.
- Independence will ensure reporting transparency to the public and legislators when it comes from a source other than VADOC.

Perceived Challenges

Those who support the current VADOC system were equally passionate about the effectiveness of the oversight and processes in place. Several key benefits repeatedly mentioned by interviewees included:

- Many respondents felt that the Office of Ombuds would add unnecessary administrative costs. Particularly concerned were those associated with the BOLRJ and Sheriff's department.
- If The Board mentioned in SB 1363 were created, many felt the action of dismantling the BOLRJ after the 2020 verbiage clarification and positive movement by the current administration would be lost including effective audits and inspections.
- Repeated comments referenced potential redundancy, stating there is already a working grievance process in place, hotlines (OSIG) for incarcerated/families, audits (ACA) and inspections by different associations that serve the function adequately (see Redundancies).

While independence and neutrality of a possible Office of Ombuds within VADOC was brought up most often, following closely was the issue of oversight, both what is currently in place for VADOC and what should be in place for a future Office of Ombuds.

2) KEY FINDING – OVERSIGHT OF VADOC AND OFFICE OF OMBUDS

Comments on the topic of oversight were divided into a) oversight of the VADOC and b) oversight over the proposed Office of the Ombuds.

▷ VADOC Oversight (including impact on BOLRJ)

Perceived Benefits

The desire for greater oversight ran parallel with the desire for an independent ombuds office. Those in favor of an additional oversight body mentioned the following potential benefits:

- Fewer lawsuits against the VADOC by providing a “safe” place where issues can be addressed before escalation to legislators or Social Justice/Civil Rights Organizations.
- Inspections by an apolitical, transparent office could create an opportunity to identify best practices within the corrections facilities.
- A greater sense of transparency through more frequent reporting that provides a current and honest assessment of the corrections institution. Currently, several legislators stated the information they hear on a particular topic from VADOC doesn’t completely match with information shared by incarcerated/advocates. They felt more frequent and transparent communication would provide consistent and reliable information.
- Would provide a voice for the incarcerated. 47% of respondents mentioned the importance of oversight for the Department, stressing that corrections agencies are the most closed in society with complete control over those housed there. Perception was the VADOC is less likely to objectively hear concerns that go against rules they’ve created.
- Oversight backed by statutes and the legislature would ensure consistency of approach and embed the office to offer an alternative way of approaching problems for those without a voice.

Perceived Challenges

- 25% of respondents felt that the process in place within the VADOC works as is without an independent oversight requirement – grievances are processed and overseen by Regional Ombuds at the facilities with oversight for the Regional Ombuds from the Ombuds Services Manager to ensure compliance, and currently effective audits with OSIG/ACA/PREA/BOLRJ.
- Several respondents stressed that most complaints and grievances are primarily unfounded, taxing the current ombuds system unnecessarily. More oversight would simply increase the burden and set the ombuds office up for failure.



- Other respondents felt the current system would work if there were education on how to use the grievance process effectively.
- Concern was expressed around the extensive cost that could be involved in reverting to an oversight body, particularly as it relates to the BOLRJ. There was pervasive agreement through those associated with the Board of Local and Regional Jails and the sheriff’s organization that dismantling the current BOLRJ would be a mistake since it could create potential cost burden of extensive staffing when the majority of the current BOLRJ are volunteers. In addition, it was stated that there is the potential to lose positive relationships built with each local board. Finally, the respondents felt that there is a current inspection and audit process conducted by the BOLRJ that has been effective and well-received.

▷ Ombuds Oversight of Office of Ombuds

HB 2325 proposes a *Corrections Oversight Committee* be established consisting of eleven members to help select the Ombuds, review inspections, and have power to issue a subpoena to the Department for records, among other things. The purpose is increased accountability for the office.

Perceived Benefits

- 42% of respondents when asked about ensuring success of the ombuds office did mention the need to create oversight of the department backed by statutes and legislature, and that an advisory committee would be necessary.

Perceived Challenges

- Respondents stressed the right people would need to make up the board for it to be effective, and some questioned the number of members as being too many (11).
- Concerning the state ombuds programs, two of the states have oversight from a legislative council, two report to the Governor or Governor’s Office, and only one has an Advisory Committee.

IOWA	WASHINGTON	MICHIGAN	NEW JERSEY	ARIZONA Legislation
Legislative Counsel (staff attorney)	Governor Guidance from Statewide Family Council	Legislative Council	Governor Guidance from Advisory Committee	Correctional Oversight Committee





Tied to the conversation of oversight was the discussion of redundant activities – those processes already in place that could serve the same function as the proposed ombuds office.

3) OMBUDS REDUNDANT ACTIVITIES

Some of the key responsibilities of the Office of Ombuds as described in the Statement of Needs include functions that are currently conducted by other government entities. Below is a visual that shows the potential overlap.

STATEMENT OF NEED	VADOC OMBUDS	BOLRJ	OSIG	PREA	ACA
Provide information to inmates and family members, DOC employees and contractors, and others regarding the rights of inmates	Yes Orientation on grievance process within 7 days of arrival Facility Handbook	Yes As it pertains to local and Regional jails – Provides programs to educate citizens	Yes Offers State Fraud, Waste and Abuse Hotline for all citizens. Public news releases	Yes As it pertains to sexual assault or harassment training for: Employees, Inmates How to report incidents	No
Monitor the conditions of confinement	Yes As it pertains to an investigation based upon a complaint	Yes As it pertains to local and Regional jails – conducts annual inspections and audits every 3 years	Yes As it pertains to fraud, waste and abuse and efficiency.	Yes As it pertains to sexual assault or harassment including design or acquisition of new facilities or systems.	Yes Through the accreditation process
Provide technical assistance to support inmate participation in self-advocacy	Yes Grievance Process Institutional Ombuds	No	Yes As it pertains to fraud, waste and abuse and efficiency Provides Hotline	Yes As it pertains to sexual assault or harassment - Education for inmates on using the reporting process	No





STATEMENT OF NEED	VADOC OMBUDS	BOLRJ	OSIG	PREA	ACA
Provide technical assistance to local governments in the creation of correctional facility oversight bodies	No	Yes As it pertains to local and regional jails and local governing boards	No	No	No
Establish a statewide uniform reporting system to collect and analyze data related to complaints received by the Department of Corrections	Partial Manual until entered into CORIS database by Ombuds - Written Complaints, Level I, II and III Responses	N/A	N/A	N/A	N/A
Gather stakeholder inputs into the Office of the Ombudsman's activities and priorities	No	No	No	No	No
Inspect each state correctional facility at least once every three years, and at least once every year for maximum security facilities	No	No As it pertains to <u>local and regional jails</u> , inspects annually and conducts audits every 3 years	No	Yes As it pertains to sexual assault or harassment - each facility audited at least once every three years.	Yes Per the accreditation process
Publicly provide facility inspection reports	No	No	Yes As it pertains to fraud, waste and abuse and efficiency. Website Reports	No	No
Conduct investigations of complaints made by inmates, family members, and advocates	Yes	No	Yes As it pertains to fraud, waste and abuse and efficiency.	Yes As it pertains to reports of sexual assault or harassment	No



As noted by the visual, VADOC is already audited in many different areas and must meet certain requirements for national accreditation and federal law. There are also internal grievance reporting processes in place to address complaints by inmates and to respond to correspondences from the public.

According to some interviewees, the subject of the audits by each institution are specific to their area of interest. And the question concerning the effectiveness of the current grievance process also came into play.

In the one-on-one interviews, the following question was asked: *How might the services of the Office of the Ombuds be redundant?*

- 68% of respondents did not accept the premise that there is any potential redundancy with the institution of this office.
- 32% of respondents agree that the Office of Ombuds would be redundant based upon what is already in place.

Perceived Benefits

- Many respondents stressed that all departments are more effective with quality oversight. Redundancy was perceived as a positive if it creates more accountability for a department with big responsibilities. If the cost of an oversight process is merely overlap, it was viewed as worth it.
- Ombuds audits will focus on the health, safety, and welfare of the incarcerated. Many current audits are centered on facility issues that are structural in nature.
- The ombuds office would improve even those processes that might include overlap, including the grievance process. Ex: *Many complaints simply come back as “ungrievable” with no explanation; receipts are not always provided for regular grievances, etc.*
- Overlap could ensure coverage of systemic issues, observing the pattern of repeated issues across inspections/audits/investigations and addressing the bigger problems.
- Ombuds could ensure that the current inspections are surfacing important problems, or at least fill the gap if not. As cited earlier, 6-10% of complaints are determined *Unfounded*.

Perceived Challenges

- According to some, the complaint function/grievance process is already in place and run effectively by the current VADOC ombuds’ structure.

Perceived Challenges (cont.)

- Another inspection process would mimic protocols already in place, and simply create a central overseer of the current process to ensure what is in place is meeting standards.
- OSIG has an anonymous hotline for reporting wrong-doing and complaints in addition to the current VADOC ombuds complaint/grievance process.
- BOLRJ already has effective inspections and oversight. No more is needed.
- PREA is concerned with the health and welfare of the incarcerated.
- ACA looks for conditions that affect mental health, medical issues, and the overall welfare of the incarcerated individuals.

The concern of redundancies is primarily based upon current external audits conducted and actions and key responsibilities of the current VADOC ombuds structure. Following is a comparison of state ombuds responsibilities based upon state ombuds interviews and supporting legislation.

The responsibilities and structure comparisons include the current VADOC ombuds structure which needs to be reviewed in order to understand possible redundancy or gaps.



4) OMBUDS KEY RESPONSIBILITIES

The key responsibilities of an Office of Ombuds were addressed in both the state ombuds conversations and legislation. Below is a comparison of the current responsibilities of each of the ombuds, as well as the current VADOC structure. Note that New Jersey is in a period of transition as they move towards new legislation passed in 2018 that more closely mirrors that of Washington State.

	IOWA	WASHINGTON	MICHIGAN	NEW JERSEY	ARIZONA Legislation	VADOC Ombuds
Complaints	<ul style="list-style-type: none"> ○ Handles Complaints ○ From local and state gov't agencies ○ 6,000+/yr (50% from Incarcerated) 	<ul style="list-style-type: none"> ○ Handles Complaints ○ From incarcerated individuals ○ 2,983/yr 	<ul style="list-style-type: none"> ○ Handles Complaints ○ From incarcerated individuals and from legislators ○ 1,550/yr 	<ul style="list-style-type: none"> ○ Handles Complaints ○ From incarcerated, families of, citizens, public officials and gov't agencies. ○ 14,105 total contacts (answers all) 	<ul style="list-style-type: none"> ○ Handles Complaints ○ From incarcerated individuals and corrections staff 	<ul style="list-style-type: none"> ○ Handles Complaints ○ From incarcerated individuals, their families and concerned citizens ○ ~4,500/yr
Investigations	<ul style="list-style-type: none"> ○ Initiates investigation w/o complaint ○ Conducts Investigations ○ Makes Recommendations 	<ul style="list-style-type: none"> ○ Initiates investigation w/o complaint ○ Conducts Investigations ○ Makes Recommendations 	<ul style="list-style-type: none"> ○ Initiates investigation w/o complaint ○ Conducts Investigations ○ Makes Recommendations 	<ul style="list-style-type: none"> ○ Initiates investigation w/o complaint ○ Conducts Investigations ○ Makes Recommendations 	<ul style="list-style-type: none"> ○ Initiates investigation w/o complaint ○ Conducts Investigations ○ Makes Recommendations 	<ul style="list-style-type: none"> ○ Initiates investigation w/o complaint ○ Conducts Investigations ○ Makes Recommendations





OMBUDS KEY RESPONSIBILITIES (CONT.)

	IOWA	WASHINGTON	MICHIGAN	NEW JERSEY	ARIZONA Legislation	VADOC Ombuds
Conducts Formal Facility Inspections	<ul style="list-style-type: none"> No – other than relevant to investigations Has open access including videos – built on statute, can go to subpoena. 	<ul style="list-style-type: none"> No– but have ability to monitor based upon complaints or investigations Has open access to all DOC records (minus video) Announced or Unannounced 	<ul style="list-style-type: none"> No– but can call an informal inspection when visiting Has open access to everything in DOC – 24/7 access to correctional facilities Announced & Unannounced 	<ul style="list-style-type: none"> Yes – New legislation inspect 1 or 2 two units in each facility every few months. Has reasonable access 	<ul style="list-style-type: none"> Yes– inspect each facility at least once every two years. Has open access – can subpoena documents Announced or Unannounced 	<ul style="list-style-type: none"> No – other than selected inmate areas within the facility each month Coordinates with the Institutional Ombudsman to conduct scheduled visits and advises the Unit Head
Success Metrics	No – not easy to measure. Some successes but frustrated when we can't enact resolutions.	No – difficult to measure. Timely? Quality reports/ Systemic issues handled?	Not clear – difficult to measure, depending on how success is defined, and someone is always unhappy with decision.	No – success is based upon perception of resolution which is hard to gauge.	n/a	No – Success is determined when policy has been followed and issues are fully resolved.





OMBUDS GOVERNANCE/STRUCTURE

To understand key responsibilities, it is important to research how other ombuds offices are governed. Below is a comparison of what is currently in place.

	IOWA	WASHINGTON	MICHIGAN	NEW JERSEY	ARIZONA Legislation	VIRGINIA
Year Created	1972	2018	1975	1972 created 2018 new legislation	Not passed	1977
Oversight Structure	Legislative Counsel (staff attorney) Oversees Prisons and Jails	Governor Guidance from Statewide Family Council Oversees Prisons only	Legislative Council Oversees Prisons only	Governor Guidance from Advisory Committee Oversees Prisons only	Correctional Oversight Committee Oversees Prisons only	n/a
2021 State Population	3,167,974	7,796,941	9,992,427	8,874,520	7,520,103	8,692,676
Inmate Population	9,260	19,184	32,477	18,613	40,951	24,821
Type of Structure <i>*Acting Ombuds in place</i>	*Independent – within legislative branch; DOC is Executive Branch	Independent – DOC & Ombuds in Exec Branch but wholly separate	Independent – situated within the legislature	*Independent – “in but not of” the Department of the Treasury.	Independent	n/a
Statute/Bill Supporting	Yes – created by statute	Yes – created by statute	Yes – created by statute	Yes - P.L. 2205 c.155 The Public Restoration Act	Yes - HB 2167 1 st Session, 2021, did not pass	Yes - HB2325-2021 Session-did not pass, study ordered
Appointed by/ Reports To	Legislative Council	Governor	Legislative Council	Governor – new legislation, 5-year appt.	Correctional Oversight Committee	n/a





OMBUDS GOVERNANCE/STRUCTURE (CONT.)

	IOWA	WASHINGTON	MICHIGAN	NEW JERSEY	ARIZONA Legislation	VIRGINIA
Reporting Process	<ul style="list-style-type: none"> Annual report by statute; published to the public. Other reporting done as determined necessary by Ombuds. 	<ul style="list-style-type: none"> Annual report to Governor, Legislature, Statewide Family Council Systemic reports Informal Surveys Monitoring site visit reports 	<ul style="list-style-type: none"> Annual report presented to Legislature Findings of investigation to Legislature 	<ul style="list-style-type: none"> Annual report 	<ul style="list-style-type: none"> Writes and publishes reports Meets quarterly with Oversight Committee, Governor, and Director of DOC. 	n/a





STATEMENT OF NEEDS STATE COMPARISON

To bring together key responsibilities with this study’s specific statement of needs, below is a comparison of each of the states studied (minus VADOC ombuds structure).

STATEMENT OF NEED	IOWA	WASHINGTON	MICHIGAN	NEW JERSEY	ARIZONA Legislation
a. Provide information to inmates and family members, DOC employees and contractors, and others regarding the rights of inmates	<p>Yes</p> <p>Website Visits to office Brochures on inmates’ rights Email Fax Mail</p>	<p>*Yes</p> <p>Website Public Stakeholder meetings Communication w/legislators DOC Meetings Website case updates Public calls with families on Thursdays ADA updates via Kiosk Statewide Toll-Free #</p>	<p>*Yes</p> <p>Website Visits to office Email Fax Mail</p>	<p>*Yes</p> <p>Statewide toll-free # Website Mailing Address</p>	<p>*Yes</p> <p>n/a</p>
b. Monitor the conditions of confinement	<p>*Yes</p>	<p>*Yes</p>	<p>*Yes</p>	<p>*Yes</p>	<p>*Yes</p>
c. Provide technical assistance to support inmate participation in self-advocacy	<p>No</p> <p>Resource for aggrieved – get to right source Tell inmates how to file grievances or appeals Offer advice on what to include</p>	<p>*Yes</p>	<p>No</p>	<p>*Yes</p>	<p>*Yes</p>
d. Provide technical assistance to local governments in the creation of correctional facility oversight bodies	<p>No</p>	<p>No</p>	<p>No</p>	<p>No</p>	<p>*Yes</p>

**Stated in Ombuds legislation*





STATEMENT OF NEEDS STATE COMPARISON (CONT.)

STATEMENT OF NEED	IOWA	WASHINGTON	MICHIGAN	NEW JERSEY	ARIZONA Legislation
e. Establish a statewide uniform reporting system to collect and analyze data related to complaints received by the Department of Corrections	*No Internal system used by staff to log complaints and details	*Yes	*Yes	*Yes	*Yes
f. Gather stakeholder inputs into the Office of the Ombudsman's activities and priorities	No	*Yes	No	*Yes	*Yes
g. Inspect each state correctional facility at least once every three years, and at least once every year for maximum security facilities	No DOC inspects jails Informal based on investigations	No Monitoring visits only as needed	No Informal inspections every facility visits for cleanliness, etc.	*Yes New legislation	*Yes Once every two years Once/year Maximum
h. Publicly provide facility inspection reports	No Inspections Provides investigation reports to Legislator & Governor. Most made public.	No Inspections All investigations and results are made public	No Inspections	*Yes	*Yes
i. Conduct investigations of complaints made by inmates, family members, and advocates	*Yes	*Yes	*Yes	*Yes	*Yes

**Stated in Ombuds legislation*



The following benefits and challenges are based upon observations and review of the charts by DLG Strategic, LLC.

Perceived Benefits

- Focus of the ombuds position is seen as more streamlined when serving prisons only. The clear difference between running a corrections facility and a local jail was seen as a potential diversion of the Ombuds ability to address the safety, health, and welfare of those incarcerated in the correctional facilities.
- Most state ombuds conduct informal inspections as needed without the additional responsibility of regular, formal inspections. Only New Jersey (starting to enact new legislation requiring inspections) and Arizona (where legislation did not pass) included formal inspections. Overall, the interviewed ombuds expressed a concern about time and focus if the office is to include any kind of scheduled, formal inspections of the correctional facilities.
- While Iowa and New Jersey currently answer all complaints received, there seems to be an increased focus on finding systemic issues and investigating patterns of issues rather than singular complaints.
- The ability of the office to make recommendations is seen as important by all the state ombuds; several shared their positive collaboration with the DOC when working together to implement solutions.
- Investigations or informal inspections do not seem to require extensive personnel even when unannounced. Each state ombuds stated that, at most, they would need two security personnel to assist.

Perceived Challenges

- Those states who handle complaints from a variety of sources (Iowa and New Jersey) stressed that their time is limited to responding to complaints. There is a concern by all state ombuds that trying to respond to every complaint means key systemic issues could be missed. For example, if there is one facility that seems to have repeated issues, that pattern could get lost in the desire to get every complaint answered. In addition, medical concerns and mental health concerns could fall through the cracks.
- Several of the state ombuds expressed concern at the concept of adding formal inspections to their responsibilities, as it could divert attention from investigations of systemic issues.
- Several of the state ombuds did express a desire to have more power over enacting their recommendations, finding it frustrating to conduct a thorough investigation and then failing to get resolution.



The interviews, legislation, research, and comparison charts provided the basis for the upcoming cost and staffing needs analysis, culminating in options that provide facts for feasibility of an Office of Ombuds.





NEEDS ANALYSIS

I. COST ANALYSIS

The interviews revealed that each of the state offices broke their costs down into just a few buckets:

1. Staff salary wages
2. Benefits
3. Misc. costs for travel, etc. (minimal)

While some offices had more detailed organizational charts than others, none had a detailed fiscal impact report that broke costs down into elements such as capital improvements, medical assistance, IT, or mental health costs.

Because the costs of the ombuds office could include support from DOC, we asked the DOC in each of the states included in this study to provide information. They responded as follows.

While your Ombuds is independent from the DOC, was there a fiscal impact on your DOC to support the office?

State DOC	Response
Arizona (Legislation Only)	Yes
Washington State	Yes
*Iowa	No
*Michigan	No
*New Jersey	No

**These were the offices established in the 1970's; therefore, their DOC fiscal impact is more challenging to determine.*





If so, could you please provide the number of people supporting the Office of Ombuds and the overall cost to your DOC?

State DOC	Number of People	Overall Cost
Arizona	Two- One Staff, One Inmate Ombudsman	Just their salaries and equipment would be a fiscal impact on the agency.
Washington State	Five	\$500,000

Below is a comparison of the Office of Ombuds’ cost by state. The salaries are averages and are based upon what was provided by each of the State Ombuds.

OMBUDS STATE COST COMPARISON

	IOWA	WASHINGTON	MICHIGAN	NEW JERSEY	ARIZONA Legislation
OMBUDS BUDGET 2020	\$2,000,000	\$1,150,000	\$1,020,000	\$784,000	\$1,500,000
SALARY AVERAGES	\$157,000 - Ombuds \$73,000 – 15 Staff	\$707,250	\$127,000 - Ombuds \$73,000 – 8 Staff	\$115,000- Ombuds \$85,000 – 8 Staff	TBD
~ TOTAL SALARIES	\$1,242,000	\$707,250	\$711,000	\$795,000	TBD
BENEFITS - ~35%	\$434,700	\$250,237	\$248,850	\$278,250	TBD
TOTAL	\$1.676,700 83% of budget	\$957,487 83% of budget	\$959,850 95% of budget	\$1,073,250 130% of budget	TBD

(State Ombuds Interviews)

II. STAFF ANALYSIS

Each state had slightly different subordinate ombuds positions (i.e., investigators, assistant ombuds, analysts), and ratio of staff to number of complaints varied widely. New Jersey currently assists a wide variety of complaints; the new Ombuds legislation passed in 2018 will change how this office functions and could alter that number.





Most of the other states’ staffing is focused on intake, investigation, and response. **New Jersey and Arizona both noted inspections as part of the role, but neither have put that into action.**

Staffing numbers include all reporting up to the ombuds position; the actual ombuds is not included in the FTE total. Staffing was provided by the current state ombuds.

	IOWA	WASHINGTON	MICHIGAN	NEW JERSEY	ARIZONA Legislation
TOTAL STAFF	15 FTE: 12 investigators) 2 support staff General Counsel	8 FTE: 1 Assistant Ombuds 3 Lead Assistants 4 Early Resolution [PT – 5+ Interns – 2]	8 FTE: 6 Analysts 2 Clerical	8 FTE: 5 Assist Ombuds 3 Clerical	TBD
*RATIO OF STAFF TO COMPLAINTS	6,000/yr 400 complaints per staff member	2,983/yr 372 complaints per staff member	1,550/yr 193 complaints per staff member	14,105/yr 1,763 complaints per staff member	TBD

(State Ombuds Interviews)

**Ratio was determined by taking the total complaints per year and dividing by total number of staff without assuming how many a particular position might actually handle, since this information was not made available.*

To best understand the feasibility of the Office of Ombuds as it relates to the VADOC, we have compared the four state ombuds’ cost and staffing to the VADOC Fiscal Impact report created for HB 2325.

COMPARISON OF STATE OMBUDS TO VADOC ESTIMATES

To create and support an effective office of ombuds, VADOC determined that certain FTE’s and cost would need to be in place, both in the ombuds office as well as within the VADOC to ensure an approach that is effective, adheres to their standards, and mirrors their existing structure. This includes:

- Correspondence, grievance, and compliance functions for the new Department of Corrections Office of Ombuds would need to include one supervisor and three direct reports to coincide with the three regions of the Department of Corrections.
- Non-personal services would be required to address the new agency costs of an office lease, IT purchases, specialized contracts, vehicles, travel/per diem, office furniture equipment, etc.
- 26 liaison positions would be required at each of the correctional facility locations as well as two subject matter (HR/Data) liaison positions at Richmond headquarters.



- Overtime for Correctional Officers was included to cover when ombuds agency staff or companion oversight committee members visit any correctional facility.
- Various IT requirements would need to be added to cover additional staff and hardware cost that supports a statewide uniform system.

The VADOC Fiscal Impact Estimate included breakdowns staff and cost as follows:

FISCAL IMPACT OF HB2325

Department of Corrections Ombudsman		
Function	FTE	Cost
Correspondence/Grievance Section	10	\$705,659
IT	4	\$418,183
Compliance	10	\$833,110
Policy and Procedures	4	\$349,935
Accounting and Procurement	6	\$442,101
Administrative Support	8	\$439,105
Non-Personal Services		\$1,300,000
	<u>42</u>	<u>\$4,488,093</u>

Department of Corrections		
Function	FTE	Cost
Security		\$510,533
DOC Institutional Liaisons	26	\$3,002,912
IT Costs (\$1.84M one time)		\$2,510,800
HQ Data Liaison	1	\$102,892
HQ HR Liaison	1	\$102,892
DOC Medical Costs		Indeterminate
	<u>28</u>	<u>6,230,029</u>

COST AND STAFF COMPARISONS

The cost and staff comparison is broken out as follows:

Average State Cost: Taking four reporting states (Arizona does not yet have an office), averaging total and current salary/benefit costs

Current VADOC Cost: Taking current VADOC current ombud’s costs, averaging total and current salary/benefit costs

HB 2325 Estimated Cost VADOC: Taking estimated cost from the HB 2325 Fiscal Impact report provided by the VADOC



AVG STATE COST	CURRENT VADOC COST	HB 2325 EST COST VADOC
\$1,155,821	\$2,268,851	\$10,718,122

**Does not include legal counsel position*

(VADOC Human Resources) (VADOC, Corrections Operations Administrator)

Below is a staff comparison that is broken out as follows:

Average State Staff: Taking four reporting states (Arizona does not yet have an office), averaging total and current staff

Current VADOC Staff: Taking current VADOC current ombud’s staff, averaging total

HB 2325 Estimated Staff VADOC: Taking estimated staff from the HB 2325 Fiscal Impact report provided by the VADOC

*AVG STATE STAFF	CURRENT VADOC OMBUDS STAFF	HB 2325 EST STAFF VADOC
10 (Ombuds Office) **3 (VADOC Support)	37	42 (Ombuds Office) 28 (VADOC Support)

(VADOC Human Resources) (VADOC, Corrections Operations Administrator)

**Does not include legal counsel position*

***Based upon state reporting of two states who have DOC support positions*

The difference in these estimates warrants further study.

Based upon the state ombuds responses on staffing needs, along with the VADOC HB 2325 Fiscal Impact estimate, it appears there are components that significantly increase the number:

- 1) Virginia is the only state that has the Institutional Ombuds or liaison at every major institution with a total of 26. VADOC has mirrored their standards and current staff by assuming a robust approach.
- 2) Other states seem to require significantly fewer DOC support positions as they handle complaints only and have yet to begin the formal inspections.
- 3) Additional security personnel were mentioned for investigations and inspections. The reporting states mentioned 1-2 security personnel per ombuds for those visits to the correctional facility. VADOC is assuming overtime will be involved.

A clear understanding and comparison of potential costs related to an Office of Ombuds allows us to look at potential staffing and cost options.





POSSIBLE OPTIONS

Based upon the states ombuds programs, the interview responses, the VADOC current ombuds structure, and VADOC’s fiscal impact estimates, DLG Strategic offers a series of possible cost and staffing options.

Option #1: This option determines that the current VADOC ombuds structure remains in place, with improvements to address key concerns identified by interviewees.

	*Staff	**Current Cost
Grievances, Investigations, Communications	Keep as is: <ul style="list-style-type: none"> ● Ombuds Services Mgr ● 7 Regional Ombuds ● 26 Institutional Ombuds 	\$2,268,851
TOTAL BUDGET	37	\$2,268,85

**Number of staff based upon current VADOC Ombuds average handling of ~4,500 grievances per year
 **Salaries based upon averages determined by three states reporting salaries for positions; IT salaries derived from VADOC Fiscal Impact estimate HB 2325*

The current VADOC Ombuds structure provides more institutional support than other state structures. Taking this into account, rather than incurring the expense of a new structure, this scenario would improve the structure already in place by doing the following:

- Establish incarcerated liaisons within each major institution to be the “voice” for the ombuds structure, working with the Institutional Ombuds to ensure that the incarcerated individuals are clearly able to use and navigate the grievance process.
- Have Institutional Ombuds report to the Regional Ombuds directly rather than the Warden. While this structure was initially put in place to accelerate the speed of response, the desire for more independence would be addressed by rearranging the reporting structure.
- Quarterly reports on grievances and resolutions provided to the General Assembly and posted on the VADOC website to provide greater transparency.
- Ombuds focus is on systemic issues with investigations, looking for the resolutions that will provide the greatest impact.
- Continue utilization of the current case counselors, whose key responsibilities are to provide comprehensive case management services by ensuring all relevant classification paperwork is timely, accurate and complete. A core element of the role includes communication with inmates and inmate family members, which could be enhanced with more scheduled communication that could help with self-advocacy.





Option #2: This option uses an ombuds model similar to interviewed states.

Providing an “average” of what similar states interviewed for this study currently have in place, this option would include the following changes:

- Two additional Assistant Ombuds added for Inspections, since **none** of the states interviewed currently conduct formal, scheduled inspections.
- DOC Security as noted in the VADOC Fiscal Impact estimate for HB 2325. This fits with feedback that most inspections, announced or unannounced, require only 1-2 security guards but that depends on the number of people in the party that are conducting the inspections.
- Two IT Support Staff pertaining to the implementation of a statewide data collection system, along with the installation costs – both derived from the VADOC cost breakout for HB 2325.
- Three VADOC Support staff as noted in the VADOC cost breakout for HB 2325 and pertaining to the reporting of interviewed states that there was an average of three employees within DOC to support the office.

Avg Ombuds Salary	\$133,000 X 35% benefits = \$179,550
Avg Assistant Ombuds Salary	\$77,000 X 35% benefits = \$103,950
IT Staff Salary (per VADOC fiscal impact estimate)	\$104,500

	*Staff	**Cost
Grievances, Investigations, Communications	1 Ombuds 8 Assistant Ombuds	\$1,011,150
Inspections	2 Assistant Ombuds	\$207,900
VADOC Security	As needed	\$510,533
Reports	1 Assistant Ombuds	\$103,950
IT Staff	2 IT Support	\$209,000
IT Initial Cost	Installation	\$1.84M
***VADOC Support	3 VADOC (HR, Data, Medical)	\$311,850
TOTAL BUDGET	17	\$3,438,383

**Number of staff based upon current VADOC Ombuds average handling of ~4,500 grievances per year*
***Salaries based upon averages determined by three states reporting salaries for positions; IT salaries derived from VADOC Fiscal Impact estimate HB 2325*
****VADOC Support number based upon average of reported by states and using the Assistant Ombuds’ salary*





Option #3: Assuming the current approach to collecting grievances, this option takes the traditional approach of Option #2 and removes the IT component, then adds the liaisons/Institutional Ombuds position back in. The new ombuds office would absorb the Regional Ombuds positions.

Changes include:

- The removal of the statewide data collection system – retaining the manual approach currently used within the VADOC (manual intake with input into CORIS).
- 26 Institutional Ombuds currently in place are retained as intake personnel, an approach not currently used by any of the interviewed states.

Avg Ombuds Salary	\$133,000 X 35% benefits = \$179,550
Avg Assistant Ombuds Salary	\$77,000 X 35% benefits = \$103,950
IT Staff Salary (per VADOC fiscal impact estimate)	\$104,500

	*Staff	**Cost
Intake Complaints/Grievances	26 Institutional Ombuds	\$1,522,924
Grievances, Investigations, Communications	1 Ombuds 8 Assistant Ombuds	\$1,011,150
Inspections	2 Assistant Ombuds	\$207,900
VADOC Security	As needed	\$510,533
Reports	1 Assistant Ombuds	\$103,950
***VADOC Support	3 VADOC (HR, Data, Medical)	\$311,850
TOTAL BUDGET	41	\$3,668,307

**Number of staff based upon current VADOC Ombuds average handling of ~4,500 grievances per year*

***Salaries based upon averages determined by three states reporting salaries for positions; IT salaries derived from VADOC Fiscal Impact estimate HB 2325*

Option #4: This option takes the traditional approach of Option #2 and removes the inspections element as something to be added in later.

Changes include:

- The removal of the formal inspections, something currently not conducted by the interviewed states, although New Jersey, with new legislation, will begin formal inspections. Arizona, if the bill had passed, has formal inspections as part of their new legislation.





Avg Ombuds Salary	\$133,000 X 35% benefits = \$179,550
Avg Assistant Ombuds Salary	\$77,000 X 35% benefits = \$103,950
IT Staff Salary (per VADOC fiscal impact estimate)	\$104,500

	*Staff	**Cost
Grievances, Investigations, Communications	1 Ombuds 2 Intake 6 Assistant Ombuds	\$1,011,150
Reports	1 Assistant Ombuds	\$103,950
IT Staff	2 IT Support	\$209,000
IT Initial Cost	Installation	\$1.84MM
TOTAL BUDGET	15	\$2,719,950

**Number of staff based upon current VADOC Ombuds average handling of ~4,500 grievances per year*

***Salaries based upon averages determined by three states reporting salaries for positions; IT salaries derived from VADOC Fiscal Impact estimate HB 2325*

There are hundreds of cost and staffing combinations that could be considered; these options are based upon this study’s Statement of Needs, research of other state ombuds programs, and consideration of key concerns and points of feedback provided by those interviewed.

Overall, there is a significant discrepancy between the state ombuds staffing and costs and the more intricate VADOC current ombuds structure and cost estimates. As the point of this study was to provide facts to help determine the feasibility of an Office of Ombuds within the VADOC, following are considerations and conclusions offered by DLG Strategic, based upon the extensive research and interviews conducted for this report.



CONSIDERATIONS AND CONCLUSIONS

DLG Strategic, LLC, was asked to offer facts upon which a reasonable decision could be made concerning the feasibility of an Office of Ombuds. These considerations and conclusions are based upon interviews, research, and state ombuds information.

Overall, the office of ombuds is still a work in progress, gaining popularity as a form of oversight, but without clear metrics of success in place to show the true value of such an investment. The greatest advantage is to incarcerated individuals who need to be heard by a neutral party that is an advocate for fairness and is willing to communicate in a transparent fashion. The potential disadvantage is a series of redundancies that could create additional costs and might be resisted by those who feel they are already providing most of the services. In relation to the VADOC, the key question is – who is overseeing the overseer? The VADOC, on the flip side, has put considerable resources and expense into a thorough ombuds program, and as a nationally recognized organization feels their standards are high and work well done.

The VADOC currently has a total of 42 institutions, including 26 major institutions, six work centers, eight field units, and two secure hospital units. While under the leadership of Director Harold Clarke, the VADOC has been the recipient of recognition from ACA for audit compliance, was the 2021 recipient of the Golden Eagle Award, and in the past five years has ranked either number one or two in the rate of recidivism. Accreditation records are equally impressive. VADOC has achieved 100% PREA audit scores every year since they began in 2014 and is the first state correctional system to have PREA audits and pass them. Since 2018, Virginia has been recognized by the American Correctional Association (ACA) for audit compliance in all its Correctional Facilities and Probation and Parole Districts.

Even with these points of recognition, there are still complaints and lawsuits and concerns about oversight that need to be addressed. While there was a lot of professed confidence in Director, Harold Clarke, there is also recognition that he will not be in his position forever and, under another director, this could become a critical need.

Other key considerations and conclusions include:

- There was an overall agreement that the ombuds office should be neutral, an advocate for neither the VADOC nor the incarcerated individuals, but for fairness in general.
- The interviews revealed a mostly polarized perspective concerning the creation of an office of ombuds either seeing the Office of Ombuds as completely unnecessary or critically necessary. The central desire for oversight was based upon the fairness and objectivity of the office if located within the VADOC. The central concern for the office as unnecessary was redundancy of cost and effort, as well as the dissipation of inspections and boards already functioning effectively.

- Overall, an independent ombuds office was the most repeated topic of the interviews, including with the state ombuds. This raises the following questions:
 - *Is there a way to show that the current VADOC ombuds structure is fair in comparison to other ombuds programs?*
 - *Is there a way to improve the current VADOC ombuds structure with reorganization and more focus on education for the incarcerated?*
 - *Can trust be built for advocates, incarcerated individuals and families, legislators if the VADOC continues to oversee the ombuds office?*
- While Director Clarke is highly regarded by most of the interviewees, there is still concern about when Director Clarke is no longer in place. This raises the following questions:
 - *Should the “fairness” of a process be reliant upon one individual vs. a well-functioning department?*
 - *What if Director Clarke leaves and there is no independent office – how might that impact the work being done?*
- The importance of having the right people in place to ensure the success of this office was repeated, though it did not show in the top five of the interview questions. With an increase in responsibilities for the oversight body, it was expressed as imperative that we have people in place who have the experience and expertise necessary to handle the responsibilities. These experts will need to possess some level of legal knowledge and be familiar with the standards required of them.
- The current VADOC grievance process is perceived as ineffective according to many of the interviewees who have experienced it. It was stated that the process is complicated, not consistently enforced, and requires more help for those with a lower level of education. The fact that the time limits for each stage of the process are confusing and difficult to adhere to, and a large percentage of the grievances are determined “unfounded” or “ungrievable” even when the situation might have been, in their opinion, valid. This could be supported by the 8% average of “founded” grievances reported by the current VADOC ombuds team. This raises the following questions:
 - *How well is the process communicated to those who are incarcerated and their families? Could it be improved?*
 - *Can the timing of the process be reviewed?*
 - *Can technology help remove the manual element and speed up results?*
 - *Do we need liaisons in each correctional facility to help communicate and educate others?*
- State ombuds office cost and staffing information was limited, as most office budgets were based on staff only. A review determined that 85% - 90% of cost is based on salary and benefits for the staff. Therefore, a breakdown of additional costs concerning maintenance of buildings, medical support, IT, etc., was not available. VADOC provided the only extensive fiscal impact estimate based upon their current structure.
- There is limited cost information for formal inspections. Three of the states interviewed conduct investigations, but not formal inspections. Two of the states (New Jersey and Arizona) have inspections as part of their legislation but have not begun

conducting them. A representative of the Sheriff's office did state that when the jails are inspected there should not be more than one or two security individuals needed per inspector. An ombuds who completes informal inspections as part of their investigations repeated the same number. It was also noted that unannounced inspections should not require more security since the point is to ensure the institution is always prepared. VADOC, as part of their Fiscal Impact report for HB 2325, stated that a cost category should be created for inspections that do require more security requiring overtime cost. Several key stakeholders felt the inspections aspect of HB 2325 was more critical than the handling of grievances. This raises the following questions:

- *What would be the focus of the ombuds inspections?*
- *Would they "fill the gap" not covered by ACA, PREA, and others?*
- *Would there be overlap, and if so, what happens if things are seen differently?*
- *What would the true cost of inspections be for the ombuds office, including making sure there is subject matter expertise?*
- Specific success metrics were not provided by the state ombuds offices interviewed. Expressed by every ombuds interviewed, as well as the national expert, the nature of the position makes it difficult to define success. For some, handling increased complaints could mean incarcerated individuals trust the system, while for the DOC it could mean the office encourages unfounded complaints. Ultimately, the offices defined their success by the positive difference they made around systemic issues around the safety, health, and welfare of the incarcerated. Proof of reduced lawsuits was not supported in any of the interviews conducted or materials researched.
- The current VADOC ombuds structure provides more institutional support than other state structures. The current structure reflects the VADOC's commitment to the role of ombuds. Taking this into account, rather than incurring the expense of a new structure, an approach could be taken to improve the structure that is already in place by doing the following:
 - Institute incarcerated liaisons within each major institution to be the "voice" for the Ombuds' structure, working with the Institutional Ombuds to ensure incarcerated are clear about and able to use the grievance process. Information concerning self-advocacy is provided to the incarcerated.
 - Have Institutional Ombuds report to the Regional Ombuds directly rather than the Warden of each correctional facility. While this structure was initially put in place to accelerate the speed of response, the desire for more independence would be addressed by rearranging the reporting structure.
 - Provide quarterly reports on grievances and resolutions to the Governor's Office and/or the General Assembly, providing greater transparency. Reports to the General Assembly are posted on a public website.
 - Ombuds' focus on resolution is built around systemic issues with investigations and outcomes that provide the greatest impact.
 - Information concerning self-advocacy is provided to the incarcerated.



- VADOC currently uses an internal database (CORIS) that the Ombuds (Regional or Ombuds Systems Manager) uses to input information. A statewide system for grievances collection that could be used within the correctional facilities would be a large initial cost but could eliminate some of the frustrations with grievance process timing once put into practice.
- The Corrections Oversight Committee, as proposed in HB 2325, was preferred by those who mentioned it in interviews but not extensively discussed other than noting that it is desirable. This committee was not included in cost analysis as HB 2325 stresses the members would not be paid and be reimbursed for travel only.
- While the VADOC provided a fiscal impact cost estimate on SB 1363 concerning a possible re-establishment of a Board of Corrections, this approach would require further investigation to determine the true efficacy of it.



APPENDIX





CUMULATIVE INTERVIEW REPORT

The following ranks the top responses based upon all one-on-one interviews for the Ombuds Study. All responses are not shown, only the top five for each category (include additional categories if the lower percentage is in a ‘tie’ with others). Separate comments were grouped into “like” comments as shared below.

Interview Question: From your knowledge base, what does an Ombuds do?

RESPONSE	% of TOTAL RESPONSES	COMMENTS
Is fully independent and separate from DOC	57%	<ul style="list-style-type: none"> ● Single most important criteria of any oversight body is that it is independent ● Must also be funded separately from DOC ● Need independent verification
Investigates grievances	57%	<ul style="list-style-type: none"> ● Look for systemic patterns– don’t want to see this become a complaint driven system. ● Determine if there is merit to the complaint. ● Must talk to incarcerated
Handles grievances	53%	<ul style="list-style-type: none"> ● By the time grievances are appealed, the process is over. Situations are not being handled. People give up. ● Helps incarcerated people advocate for themselves through the grievance process.
Addresses and responds to grievances	53%	<ul style="list-style-type: none"> ● Complaints are a way to inspect backwards and determine how to fix a problem that already exists ● Grievances don’t even reach the Ombuds because it never seems to be a grievable situation.
Conducts Inspections of facilities	53%	<ul style="list-style-type: none"> ● Annually ● Critical to safety of those who are incarcerated – focus on mental health ● Not needed for BOLRJ – already does annual inspections and audits that are very thorough. Who would pick up cost of these inspections if done by Ombuds?





Interview Question: What outcome do you want, what are you observing, and what gap needs to be filled?

RESPONSE	% of TOTAL RESPONSES	COMMENTS
Grievance process needs to be clear and easier to use.	52%	<ul style="list-style-type: none"> • Timing element (tolling) is a challenge • Most court cases and costs are due to an unrealistic process that is confusing. • Most incarcerated have a high school education at best and it is a challenge
Need more transparent reporting.	42%	<ul style="list-style-type: none"> • Reports roll up to Governor and legislators • Need better communication to the legislators. • Public reports on website of inspections and investigations
Need oversight for DOC with improved transparency	42%	<ul style="list-style-type: none"> • Would like to see fewer incarcerated having to go to advocates and filing lawsuits – could prevent this with the right process • Must have appropriate stakeholders – correctional officers, front-line staff. • Recognize that Oversight committees are always rejected by the administration and will have to coexist with DOC
Must have authority to do what is needed with complaints, investigations, and inspections.	32%	<ul style="list-style-type: none"> • Unannounced inspections must be a priority • Inspections are forward prevention – outside entity has routine visits with public reports • Combine with grievance process to show patterns of need
Golden Key Access to facilities	32%	<ul style="list-style-type: none"> • Member of oversight body can go into a facility at any time w/notice • Can look at any documents • Can have confidential conversations



Interview Question: From your perspective, what value would the Office of the Ombuds provide the corrections system?

RESPONSE	% TOTAL RESPONSES	COMMENTS
Provide oversight that is transparent.	47%	<ul style="list-style-type: none"> ● Can't expect DOC to police themselves – public should be more informed about how DOC is spending. ● Would build trust with the public, incarcerated and their families. In absence of trust, look to agencies and the law and advocates ● Legislators don't know what to believe when DOC statements are at odds with information.
Need better mental health treatment and assessment.	47%	<ul style="list-style-type: none"> ● Provide a case-by-case review so medical issues aren't missed. Mental Health issues can be elevated before it creates a problem ● Provide Benefits/Improvement for the staff as well as incarcerated ● Helps administrators with funding and prevention of future problems
Provide unbiased, proactive public reporting.	26%	<ul style="list-style-type: none"> ● If DOC ends up investigating themselves, none of it works. ● Lessen bad press by publicly reporting proactively without influence of DOC. Include: # of cases received, # of cases investigated, # of resolution
I don't think it would add any value.	21%	<ul style="list-style-type: none"> ● The office is unnecessary and redundant. Just more cost. ● DOC employees are responsible for conducting and remediating the inspections.
Ombuds Office is preventative and proactive – stops issues before they start.	21%	<ul style="list-style-type: none"> ● Lower the number of lawsuits. ● Things like solitary confinement can be improved. ● Many things that could be resolved are raised to lawsuits because the grievance process is not effective. ● Legislators can know what is going on and help create more consistent experiences between facilities





Must have inspections.	21%	<ul style="list-style-type: none">● Inspections should be done – local jails have unannounced inspections, and it keeps everyone in line.● Must have capacity and staff to do inspections well.● Unannounced inspections must be included.● When there are unannounced inspections in jails there is a public statement made and it is a point of pride.● Unannounced inspections require the facility to always be prepared, which means quality goes up. Whoever is there must be ready, somebody should be in charge and answering questions. If you don't do that, like in announced inspections, the value is lost
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Interview Question: From your perspective, how might an Office of the Ombuds be a detriment to those impacted or involved?

RESPONSE	% TOTAL RESPONSES	COMMENTS
Independence isn't there and Ombuds is seen as an arm of DOC	32%	<ul style="list-style-type: none"> • DOC can take advantage of their independence and try to persuade decisions • Credibility will be instantly lost – the fox can't rule the hen house • If don't report to people who matter, and aren't independent, it is exacerbating the problem
If Ombuds doesn't have the authority and resources (staffing and funding) needed to succeed	32%	<ul style="list-style-type: none"> • Must have adequate staff • If this isn't funded correctly, then there will just be additional cost but no considerable improvement. • Need a way to respond to unfounded complaints, identify the founded complaints and fix the system.
If the Ombuds office is not set up with the right operating process and regulations.	26%	<ul style="list-style-type: none"> • Must have guidelines, a job description, and clear expectations. • Must have prioritization of office responsibilities • Some liaison positions are in place but not utilized – we could help with faster responses, but people won't use what's in place.
If Ombuds office tries to resume board over both corrections and local and regional jails.	21%	<ul style="list-style-type: none"> • When DOC split from Board of Corrections – that board is still trying to find their footing. This would create new confusion. • DOC has state money, local money is just a bonus, but locality money is much higher which they can use for salaries and programs. When you deal with local money– you would get in a tug of war between Richmond and local board. • Annual inspections in place for local and regional jails that is well handled.
If there are no safeguards for confidentiality and retaliation occurs	21%	<ul style="list-style-type: none"> • Need blind voting on the board, open meetings, protection for offenders serving • Retaliation keeps the incarcerated and correctional officers from being honest • It is dangerous to have the one with the most authority have the least oversight.





Interview Question: What do you feel must be in place to secure the success of the Ombuds?

RESPONSE	% TOTAL RESPONSES	COMMENTS
Must be independent and separate from DOC	58%	<ul style="list-style-type: none"> ● If it's the same people, the same things will happen ● Report to Governor or Secretary at a minimum ● Tied to DOC means no credibility
Benefits will be derived from a credible Ombuds system.	47%	<ul style="list-style-type: none"> ● VA DOC could be seen as a national leader if this is done right - Make DOC more about corrections and rehabilitation rather than higher security ● Figure out the successes by finding the systemic issues to address. ● Won't need to put so many resources into DOC for lawsuits.
Create oversight of the department backed by statutes and legislature.	42%	<ul style="list-style-type: none"> ● Legislature should pass a bill, work out with governor's office, to back up the position ● Legislature should create funding ● Must have oversight (board, advisory committee) over the Ombuds that includes lawmakers.
Must have real powers and authorities to investigate allegations by incarcerated and families.	42%	<ul style="list-style-type: none"> ● Must have confidential access to all grievances filed including hotlines for the incarcerated ● Must have subpoena power if DOC does not comply ● Must have Golden Key Access
Reports on grievances and investigations must focus on meta-data and systemic themes	26%	<ul style="list-style-type: none"> ● Use the system as a file for identifying systemic issues (e.g., Only sustained 5% of all complaints, average response time 3 months, etc.) ● Mixture of visits and inspections looking for systemic issues.
Must be staffed adequately and correctly.	26%	<ul style="list-style-type: none"> ● Have an incarcerated person as the Ombuds liaison - could then come together as a team and share ideas. ● Cost of additional staff required (liaisons and oversight and communication between them) would be extensive. ● Must have right staffing and a clearly defined and realistic mission and expectations ● Need competitive salaries and wages. Fund 2-3 positions at DOC to act as liaison to Ombuds





Interview Question: How might the services of the Office of the Ombuds be redundant?

RESPONSE	% TOTAL RESPONSES	NOTES
I do not accept the premise of this question/do not think redundancy is an issue.	68%	<ul style="list-style-type: none"> ● Independence should be assumed – is it oversight if it is not independent? ● It ought to be redundant, but it isn't because other inspections (like ACA) are not effective ● It can't be redundant when there is no independent oversight office currently in place ● Fail to look for the reasons behind complaints & find bigger issues ● Auditors are internal accountability mechanism – Ombuds is different ● ACA audits – those audits do not deal with quality-of-life issues. It's fire extinguishers, room checks, paperwork, doctors available, staff ratio, PREA act, checks on all the metrics but not day-to-day, real life
The entire function would be redundant – have complaint function and inspections already.	32%	<ul style="list-style-type: none"> ● Providing another place to complain is not important – we have an entire administrative division dedicated 100% to compliance of all facilities ● Another inspection would mimic protocols already in place - just need to organize our central overseer ● Grievance process is already in place – just need to be heard ● OSIG has a hotline & BOLRJ already has oversight and inspections ● There is a local board and local citizens that report to supervisor and county administrator and sheriff, and all complaints go through that board, senators, and board of local and regional jails ● The inspections would be redundant – accreditation certification unit does audit and inspect according to standards





Interview Question: Should the office handle only inmate complaints or should it also handle complaints from Corrections Officers and other facility personnel?

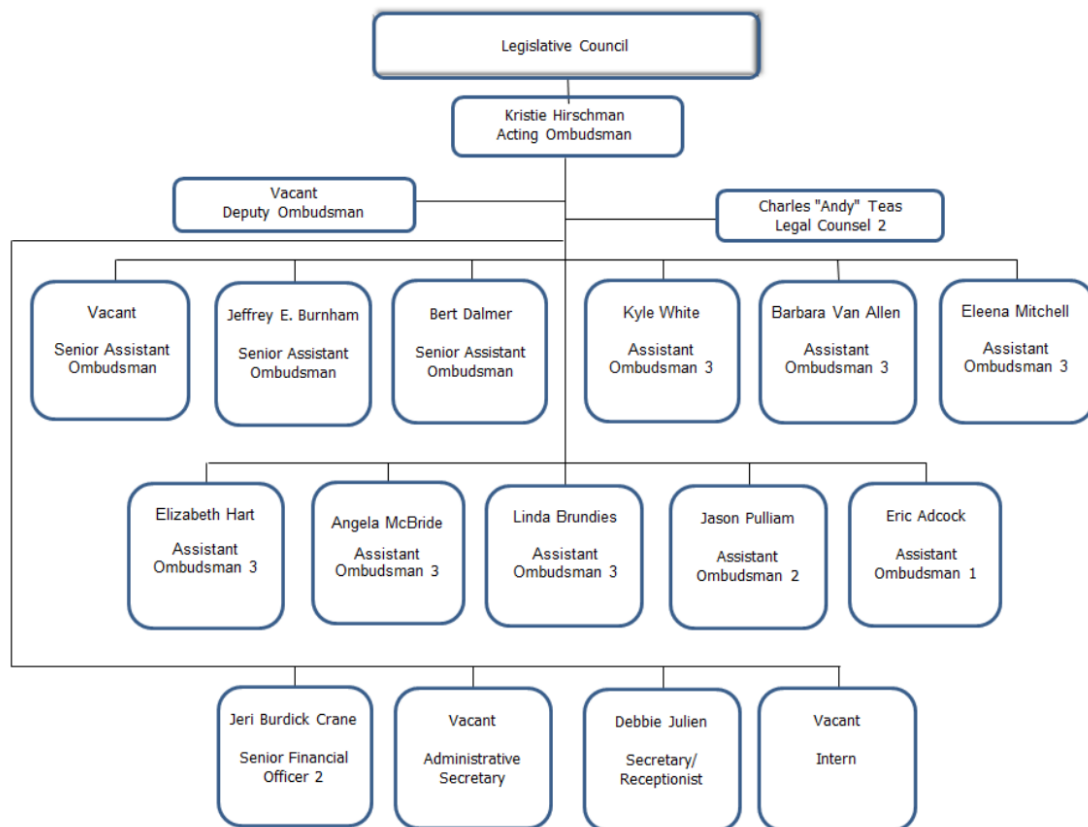
RESPONSE	% TOTAL RESPONSES	COMMENTS
Incarcerated +Corrections Officers + Personnel	68%	<ul style="list-style-type: none"> ● Make sure non-offender complaints are not prioritized over offenders or taken with a different credibility level ● Retaliation is feared by both inmates and staff - all need a safe place to go ● Reports positive impact the health and safety of all who work in the environment ● Staff often has to lockdown due to lack of staffing and working conditions ● Open to both if it is focused on reform ● Could be helpful to have an advocacy group as a committee advising – let them be part of the conversation ● Must be authorized in a bill that passes the general assembly
Incarcerated Only	16%	<ul style="list-style-type: none"> ● Corrections could be the source of information concerning treatment of incarcerated people, but they probably have a union that would be better for their complaints ● Doing both employee and inmate side is too much to do and too different ● There are other mechanisms for guards and don't want to create an environment where Ombuds is tied up on that rather than working with inmates.
Neither – this offering is redundant and unnecessary.	16%	<ul style="list-style-type: none"> ● Grievance process is in place, OSIG offers a hotline, Institutional Ombuds help – this is not needed ● The separation between what goes on between operations of jail and DOC are totally different. Jail has unique challenge of the person who is incarcerated





EXAMPLE OMBUDS ORGANIZATIONAL CHART - IOWA

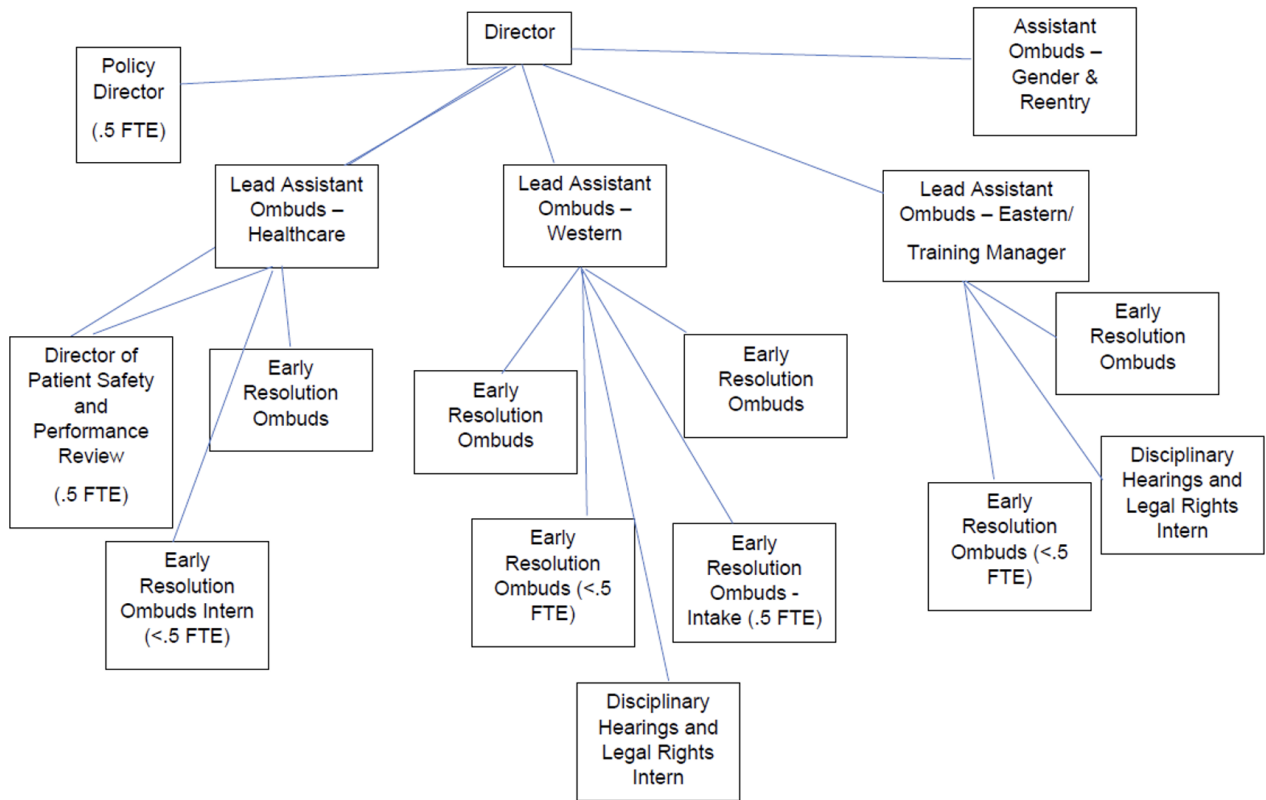
Iowa Office of Ombudsman





EXAMPLE OMBUDS ORGANIZATIONAL CHART -WASHINGTON STATE

Office of the Corrections Ombuds Organizational Chart – August 2021





2021 VADOC QUARTERLY GRIEVANCES REPORT

2021 Quarterly Grievances Report

<i>1st Quarter</i>	<i>Level I</i>	<i>Level I Founded</i>	<i>Level II</i>	<i>Level II Founded</i>
Eastern	179	7	146	7
Central	149	1	36	0
Western	303	49	230	18
Total	631	57	412	25

<i>2nd Quarter</i>	<i>Level I</i>	<i>Level I Founded</i>	<i>Level II</i>	<i>Level II Founded</i>
Eastern	248	17	94	4
Central	203	7	49	1
Western	382	15	170	10
Total	833	39	313	15

<i>3rd Quarter</i>	<i>Level I</i>	<i>Level I Founded</i>	<i>Level II</i>	<i>Level II Founded</i>
Eastern				
Central				
Western				
Total				

<i>4th Quarter</i>	<i>Level I</i>	<i>Level I Founded</i>	<i>Level II</i>	<i>Level II Founded</i>
Eastern				
Central				
Western				
Total				





Ombudsman Study DOC-22-005

SB 1363 - VADOC COST BREAKOUT (Click on hyperlink to review bill on LIS)

Board of Local and Regional Jails		
Function	FTE	Cost
Paid Board Members	8	\$923,937
Regional Experts	24	\$3,289,308
Policy	7	\$910,124
Financial	8	\$664,604
Monitoring	4	\$528,243
Administrative Support	2	\$111,872
Non-Personal Services		\$1,000,000
	53	\$7,428,087

Assumptions:

- The legislation lines out the membership:
One former attorney for the Commonwealth;
One mental health professional;
One former defense attorney;
One former inmate of a state correctional facility;
One former correctional officer;
One former sheriff;
One former regional jail superintendent; and
One representative of an org that advocates for prisoner rights.
- The Regional Experts would consist of 1 Physician, 1 Dentist, 1 Psychiatrist, and 1 Psychologist per region along with 2 Regional Administrators for State Institutions and 2 Regional Administrators for CCAP's and Jails per region
- The Policy function would mirror the Department of Corrections ROC with RA's (1 ROC with 3 for RA's State facilities and 3 for Jails). This function would review, track and present for the Board's approval all Department of Corrections and Jail policies and procedures.
- The Financial function would include a Fiscal Director, Grant Specialist, three analysts (budget, jail facility and state facility), one buyer, one accountant and one fiscal tech. This function would review and comment on all budgets and requests for appropriation prior to submittal to the Governor, review all federal grant applications, and maintain fiscal operations.
- The Monitoring function would examine activities of the Department of Corrections and the effectiveness in implementing the standards and goals of the Board. (1 ROC with 3 for RA's).
- Assumes one Executive Secretary and one OSA and include \$1M in non-personal services funding. Office location is assumed to be located within DOC HQ. The non-personal services amount includes funding to support the six regional representatives of the board's travel expenses. These six board positions are selected based upon zip code therefore, it is assumed that these would be unpaid positions who would receive per diem reimbursement when called upon related to an issue impacting a facility/jail in their zip code.
- The proposed legislation adds a section:

§ 53.1-7.1. Board may authorize payment of certain medical expenses.

The Board may authorize the payment of medical expenses incurred by a prisoner after his release or discharge from the Department when such expenses are the result of an injury suffered by the prisoner while incarcerated and not caused by the misconduct of the prisoner.

The impact of this section cannot be determined and implementation would be of concern as it authorizes a volunteer board to make determinations normally reserved for a judge/jury in civil law suit proceeding.



SB 1363 VADOC COST BREAKOUT (cont.)

PERSONAL SERVICES DETAILS - SB1363

Board of Regional and Local Jails			
Position Title/Board Member	# of Staff	Cost Per Postion	Total
One former attorney for the Commonwealth;	1	\$172,699	\$172,699
One mental health professional;	1	\$191,849	\$191,849
One former defense attorney;	1	\$172,699	\$172,699
One former inmate of a state correctional facility;	1	\$77,338	\$77,338
One former correctional officer;	1	\$77,338	\$77,338
One former sheriff;	1	\$77,338	\$77,338
One former regional jail superintendent; and	1	\$77,338	\$77,338
One representative of an org that advocates for prisoner rights.	1	\$77,338	\$77,338
Dentist	3	\$111,696	\$335,088
Physician	3	\$191,849	\$575,547
Psychiatrist	3	\$191,849	\$575,547
Psychologist	3	\$91,868	\$275,603
Regional Administrators State Facilities	6	\$127,294	\$763,761
Regional Administrators CCAPS and Jails	6	\$127,294	\$763,761
Policy Director	1	\$146,362	\$146,362
State Facilities Policy Analyst	3	\$127,294	\$381,881
Jail Facilities Policy Analyst	3	\$127,294	\$381,881
Monitoring Director	1	\$146,362	\$146,362
Monitoring Analyst	3	\$127,294	\$381,881
Fiscal Director	1	\$115,947	\$115,947
Grant Specialist	1	\$80,689	\$80,689
Agency Management Lead Analyst	1	\$85,294	\$85,294
Jail Facilities Analyst	1	\$91,868	\$91,868
State Correctional Facilities Analyst	1	\$91,868	\$91,868
Buyer Senior	1	\$73,779	\$73,779
Fiscal Tech	1	\$59,934	\$59,934
Accountant	1	\$65,224	\$65,224
Executive Secretary Senior	1	\$58,032	\$58,032
Office Services Asst	1	\$53,840	\$53,840
TOTAL PERSONAL SERVICES	53		\$6,428,087
Note:			
Cost per position includes salary, fringe benefits, and health insurance.			

HB 2325 - VADOC COST BREAKOUT (Click on hyperlink to review bill on LIS)

FISCAL IMPACT OF HB2325

Department of Corrections Ombudsman		
Function	FTE	Cost
Correspondence/Grievance Section	10	\$705,659
IT	4	\$418,183
Compliance	10	\$833,110
Policy and Procedures	4	\$349,935
Accounting and Procurement	6	\$442,101
Administrative Support	8	\$439,105
Non-Personal Services		\$1,300,000
	<u>42</u>	<u>\$4,488,093</u>

Department of Corrections		
Function	FTE	Cost
Security		\$510,533
DOC Institutional Liaisons	26	\$3,002,912
IT Costs (\$1.84M one time)		\$2,510,800
HQ Data Liaison	1	\$102,892
HQ HR Liaison	1	\$102,892
DOC Medical Costs		Indeterminate
	<u>28</u>	<u>6,230,029</u>

Total Fiscal Impact Year 1	70	\$10,718,122
Total Fiscal Impact Year 2	70	\$8,876,522

Assumptions:

- 1) Correspondence and Compliance Functions for the new Department of Corrections Ombudsman includes one supervisor and three direct reports that coincide with the three regions of the Department of Corrections.
- 2) The non-personal service needs of \$1.3M would address the new agency costs of an office lease, IT purchases, specialized contracts, vehicles, travel/per diem, office furniture/equipment etc.
- 3) The Department of Corrections requirements include 26 liaison positions assigned at each of the correctional facility locations as well as two subject matter (Data and HR) liaisons at Richmond Headquarters.
- 4) The Department of Corrections requirements also incorporate the overtime for Correctional Officers when Ombudsman Agency staff or companion Oversight Committee members visit any correctional facility.
- 5) The Department of Corrections would have various IT costs associated requirements set out in the bill.
- 6) There is a potential for medical related costs to be incurred by the Department of Corrections as this bill provides inmates an avenue to "file" complaints regarding medical services (large or small) DOC cannot predict exact number of complaints/inquiries but it could be significant and require an indeterminate number of staff to respond.



HB 2325 VADOC COST BREAKOUT (cont.)

PERSONAL SERVICE DETAILS - HB2325

Ombudsman Staff Required			
Position Title	# of Staff	Cost Per Position	Total
Correspondence Unit Supervisor	1	\$86,948	\$86,948
Correspondence Staff (3= # of regions)	9	\$68,746	\$618,711
Manager Information Security	1	\$115,497	\$115,497
IT Operational Analyst	3	\$100,896	\$302,687
Compliance Manager	1	\$106,908	\$106,908
Compliance Specialist	9	\$80,689	\$726,202
Policy Manager	1	\$96,831	\$96,831
Policy Analyst	3	\$84,368	\$253,104
Manager	1	\$100,896	\$100,896
Buyer Senior	3	\$73,779	\$221,337
Fiscal Techs	2	\$59,934	\$119,868
Executive Secretary Senior	2	\$58,032	\$116,064
Office Services Asst	6	\$53,840	\$323,040
Department of Corrections Staff Required			
Position Title	# of Staff	Cost Per Position	Total
DOC institutional liasons	26	\$115,497	\$3,002,912
HQ Data Liason	1	\$102,892	\$102,892
HQ HR Liason	1	\$102,892	\$102,892
Security off post		\$19.01 per hour	\$510,533
Total positions	70		
Notes: Cost Per Position includes salary, fringe benefits and health insurance.			

