

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>	EFFECTIVE DATE 01/17/2011	NUMBER 03.02.135
	SUBJECT OFFICE OF THE LEGISLATIVE CORRECTIONS OMBUDSMAN	
SUPERSEDES 03.02.135 (02/01/09)		AUTHORITY MCL 4.351, et seq. as amended by 2010 PA 287; 791.203; 2010 PA 286 ACA STANDARDS 4-4019; 4-ACRS-6B-03
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**POLICY STATEMENT:**

The Department maintains a cooperative working relationship with the Office of the Legislative Corrections Ombudsman, including neither hindering its lawful actions nor willfully refusing to comply with its lawful demands.

**POLICY:**

GENERAL INFORMATION

- A. For the purposes of this policy directive, Ombudsman refers to the Office of the Legislative Corrections Ombudsman.
- B. The Ombudsman is authorized by law to investigate the following:
  - 1. Upon receipt of a complaint from a prisoner or parolee under the jurisdiction of the Department, from a state legislator, or on the Ombudsman's own initiative, an administrative act by the Department or its employees which is alleged by a prisoner or parolee to be contrary to law or applicable Department policy.
  - 2. Upon the Ombudsman's own initiative, significant health and safety issues and other matters for which there is no effective administrative remedy.
- C. To preserve the integrity of the grievance process and avoid duplicate and possibly conflicting attempts by the Department and the Ombudsman to resolve a problem simultaneously, offenders should pursue all administrative remedies, including the grievance process, prior to contacting the Ombudsman except if regarding a significant health or safety issue. The Department shall provide the Ombudsman information and access to grievance information and documents upon request as set forth in this policy, however, even if administrative remedies have not been exhausted.
- D. Offenders shall not be penalized in any way for initiating a complaint with a state legislator or the Ombudsman, or for cooperating in an investigation conducted by the Ombudsman.
- E. Each Warden shall designate a staff person to serve as liaison between his/her facilities and the Ombudsman. The Deputy Director of Field Operations Administration (FOA) shall designate staff to serve as liaison for facilities and programs under FOA. The Administrative Assistant to the Director shall serve as liaison on Department-wide matters.
- F. Information prepared by and pertaining to the Ombudsman shall be posted upon request of the Ombudsman in each housing unit in each Department facility and in FOA field offices.

ACCESS TO INFORMATION

- G. Upon request and without the requirement of any release, the Ombudsman shall be given access to all information, records, and documents in the possession of the Department which the Ombudsman deems necessary in an investigation, including, but not limited to, prisoner medical health records, prisoner mental health records, and prisoner mortality and morbidity records. Pursuant to Public Act

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287 of 2010, a signed release is not required in order to provide this information.

- H. The facility liaison and, for Central Office, the Administrative Assistant to the Director shall assist in the review of information requested by the Ombudsman. All requests for information or documents pertaining to matters in litigation, under criminal investigation, under review by the Department of Attorney General, or any other sensitive matter shall be referred to the Administrative Assistant to the Director for response.
- I. The Ombudsman shall be provided access to the Department's Document Access System (DAS). Requests by the Ombudsman for photocopies of any other materials shall be provided within a reasonable period of time, subject to Paragraph H.

#### ACCESS TO FACILITIES

- J. Except during a disturbance, the Ombudsman shall be allowed unrestricted access to a facility under the control of the Department. The Ombudsman shall be subject to search in the same manner as an employee, as set forth in PD 04.04.110 "Search and Arrest in Correctional Facilities". During a disturbance, one person from the Ombudsman's office may be present in the think tank as an observer. Access by the Ombudsman to other areas in the facility during a disturbance shall be at the discretion of the Warden.
- K. The Ombudsman shall be required to produce appropriate identification and to register into and out of facilities in the same manner as Central Office staff. Volunteers and student interns assigned to the Ombudsman must be accompanied by a full-time paid employee of the Ombudsman. The Ombudsman shall immediately notify the Administrative Assistant to the Director of any new employees, student interns, or volunteers assigned to the Ombudsman. The Administrative Assistant to the Director shall forward this information to each Warden and FOA Facility Supervisor.

#### Visits

- L. The Ombudsman may meet with any offender or Department employee to obtain information or documentary or other evidence which the Ombudsman deems relevant to a matter under investigation. Each facility head shall ensure adequate space is available in his/her facility in which the Ombudsman may meet in private with employees and offenders housed in that facility. The Ombudsman may meet with offenders outside of standard visiting hours with prior approval of the facility head or designee.
- M. In Correctional Facilities Administration (CFA), the Ombudsman shall be allowed to visit any prisoner upon request, even if the prisoner's visits have been restricted. The Ombudsman is not required to be on the prisoner's approved visitors list; and such visits shall not be counted as one of the prisoner's regular visits. Visits with a prisoner also shall not be counted toward out-of-cell movement when there is a limit on the amount of such movement (e.g., STG designation). Prisoners shall be paid for work and shall receive a school stipend for absences from their assignments for a call-out to meet with the Ombudsman; this does not apply to an absence from a public works assignment. Contact visits shall be permitted with a prisoner upon request of the Ombudsman.

#### MAIL BETWEEN OMBUDSMAN AND OFFENDERS

- N. Mail between an offender in a Department facility and the Ombudsman shall be processed in accordance with Administrative Rule 791.6603 and PD 05.03.118 "Prisoner Mail". All mail between an offender and the Ombudsman is confidential and shall be handled the same as legal mail. Offenders may use Department of Management and Budget (DMB) interdepartment mail runs, in facilities where such service is available, to send postage-free mail to the Ombudsman. Outgoing offender mail to the Ombudsman shall be handled the same as mail to a state public official.

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#### TELEPHONE CALLS BETWEEN OMBUDSMAN AND OFFENDERS

- O. Telephone calls shall be permitted between the Ombudsman and an offender in a facility upon request of the Ombudsman. The call shall not be monitored, or listened to, by staff.

#### OMBUDSMAN REPORTS

- P. Before announcing a conclusion or recommendation that expressly or implicitly criticizes an individual or the Department, the Ombudsman is required to consult with that individual or the Department. As determined by the Director, the Department may prepare a statement in defense or in mitigation of the action to submit to the Ombudsman. The statement shall be included in publication of any opinion adverse to the Department or its employees.
- Q. The Department shall notify the Ombudsman, upon request, of any action taken on any recommendation made by the Ombudsman.
- R. A report prepared and recommendations made by the Ombudsman and submitted to the Legislative Council pursuant to an investigation are exempt from disclosure under the Freedom of Information Act (FOIA).

#### PROCEDURES

- S. Operating procedures are not required for this policy directive.

#### AUDIT ELEMENTS

- T. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

APPROVED: RMM 01/13/11