

## Written Testimony in support of the PROTECT ACT

February 25, 2021

Good day Senator Osten, Representative Walker, Senator Miner, Representative France, and members of the Appropriations Committee.

Thank you for the opportunity to submit this written testimony. My name is Len Engel. I grew up and lived in Connecticut for 37 years before moving to a suburb of Boston where I currently reside. I am the Director of Policy and Campaigns at the Crime and Justice Institute, a nonprofit working to advance reforms to the justice system at the local, state and federal level.

I write in support of the *PROTECT ACT*, also known as the *Promoting Responsible Oversight, Treatment, and Effective Correctional Transparency Act* and specifically section (k) which establishes the *Office of Correction Ombuds*.

For 16 years, from 1987 to 2003, I was an assistant ombudsman with the Connecticut Correctional Ombudsman, located in Hartford. My boss, James Bookwalter, led the Ombudsman office as he had since it was established in 1973 and continued to do so until the office was closed in 2009 due to fiscal pressures.

During my 16 years as an assistant Ombudsman, I managed caseloads at nearly every prison in the state. I was the primary Ombudsman at the Manson Youth Institution and the adult prison facilities in Cheshire and had the same responsibility at the Somers Correctional Institution and numerous other prisons in the state. I heard complaints from children in their first or second weeks at the youth facility who were scared and wondered why no one responded to their visitor list submission. And I heard complaints from individuals on death row about their limited access to the law library or the quality of the equipment in the recreation area. And nearly everything in between.

During my tenure I met with thousands of incarcerated individuals and received all manner of complaint. I will tell you that the majority of the complaints were either unresolvable or without merit. This should not be a surprise. Incarcerated people often have an exaggerated sense of their rights and are predisposed to an expectation of unfair treatment. However, they also have valid complaints that are resolvable. And in either case, hearing or receiving a response from the Ombudsman that their complaint is with or without merit and the reasons for it have a far different impact than a negative response from a prison official. While many meritorious complaints were resolved in the individual's favor, among the most important services provided by the Ombudsman is the dispassionate investigation, analysis, and explanation that occurs with each person's complaint whether with or without merit.

These were the central characteristics of the Ombuds role:

- Independence;
- Impartiality;
- Unrestricted availability;
- Broad powers to conduct investigations;
- The issuance of recommendations rather than orders; and
- The ability to publicize findings.

The need for these characteristics back in the 1970s and 80s is no less today.

Prisons are, by their nature, isolated and isolating structures intended to separate those inside from those outside. The relationship between those living in a prison and those working in a prison are defined by monotony and tension. There is significant suspicion on each side of the other and trusting relationships are avoided and, largely, discouraged. By both sides.

For those living inside, there is violence, loneliness, isolation, frustration and bitterness. These are not characteristics that give rise to trust. And the absence of trust can exacerbate the many problems.

While we at the Ombuds office were clear-eyed about both our role and how we were perceived by those incarcerated and by the administration, the fact of our presence and the recognition that the administration authorized this service was important. It set a tone that allowed the administration maintain its role while acknowledging that an external presence who listened to complaints and conducted investigations was important to the operation and attitude of the facility. This create trust, not just between those incarcerated and the Ombuds but extended to the administration who saw the Ombuds role as important.

Trust, of course, does not mean people are happy or accepting with how the Ombuds investigated or resolved a complaint. I can't count the number of times I heard a person yell "don't listen to him, he's down with the state." Yet, that statement matters. This expression of frustration, without recourse, to someone who later may be asked by the person to look into a property or disciplinary complaint, examine a sentence calculation issue, or provide clarity on the parole board's discretion and criteria, is important in establishing and maintaining an understanding that a relationship with the Ombuds is different than all others in the incarcerated person's world.

Thank you for reading and considering this testimony. I welcome any questions you may have and will be glad to appear before this committee or any other in support of this bill.

Sincerely,

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## A Complaint.

Below is an excerpt of a complaint that was lodged with the Ombudsman soon after the Ombudsman office was established and began to operate. This is not an atypical complaint nor is the administration's handling of this atypical. And while it occurred more than 40 years ago, similar issues, primarily related to the nature of the relationship between incarcerated person and administration, occur regularly.

Below is an excerpt from the Report of the First Year submitted by the Correctional Ombudsman on January 1, 1975

*"Sir; my complaint stems from the facts under Section (V)#2,3 & 4b. I submitted an application for an Education Release in June. The application had been approved by my counselor, the Warden and Asst. Warden and the school itself. Because of this I was given a furlough for the purpose of registering at the school on the 31<sup>st</sup> of August, 1973 through the 2<sup>nd</sup> of September in which I did so. I paid the tuition fee. I got a grant or Certificate of Eligibility from the Army to pay the cost. Everything was worked out at home and here for me to start class on the 4<sup>th</sup> of September. On the 3<sup>rd</sup> of September my counselor told me I couldn't attend. I ask him why and he told me he didn't know. Since then I've tried to contact the Warden and Asst. Warden of Treatment and my counselor, but everyone is passing the buck and I haven't seen anyone as of yet. I have in my possession a letter from the Governor of Connecticut which states that now he thinks I'm in college and I have his congratulations and if I HAVE ANY PROBLEMS to contact him, but I don't think that I have to go that far but with all respect to the time that I have left, two weeks have already elapsed. But I've come too far to accept a answer like "I DON'T KNOW WHY". I'm awaiting your reply. Sincerely, waiting."*

*This complaint commanded the Ombudsman's attention because: it offered an individual grievance rather than a general complaint against procedures affecting all inmates; the school semester had already started and the urgency of the complaint was apparent; the complaint related to a specific chain of events; and it presented the best opportunity at the time to explore the problem of handling a complaint.*

*The Ombudsman's investigation substantiated the claims made by the complainant. In July, with the assistance of a vocational counselor, he had applied for admission to college as a full-time pre-technical student. He was accepted early in August. At about the same time he had applied for tuition under the GI Bill and was granted a Certificate of Eligibility.*

*Next he applied for education release, a program which allows inmates to attend classes prior to their date of release. While this application was being processed, the complainant also applied for a furlough to register at the school, which was approved, and his parents paid the initial tuition and the student activity free of \$90.*

*The complainant returned from his furlough on September 2<sup>nd</sup>, having completed the registration. On September 3<sup>rd</sup> he learned that his application for education release had not been approved. His attempts to find out why he had been turned down after so many positive indicators were not met with answer that made sense to him. The reasons give were (1) "violent offense" and (2) "two recent misconduct reports": excessive horseplay and loaning his TV to another inmate. Both of these actions were matters of record before the inmate initiated his request for education release.*

*The Ombudsman concluded that the situation had been mishandled by the Department and that any progress made by the complainant during the period of incarceration was in danger of being undone by this denial. Furthermore, the reasons for denial did not stand up under critical examination.*

*The Ombudsman recommended the complainant's application for education release be approved and that the Department review its procedures to assure that such administrative failures do not recur. These recommendations were accepted. The complainant was approved for education release and started school the following semester.*