

## **FAQs: Prison Oversight and HB 2167 (Rep. Blackman)**

Independent prison oversight isn't partisan or political—it's not big government, it's good government. It means transparency, accountability, and fiscal responsibility for an agency that lacks all of those things and costs taxpayers \$1.3 billion per year, employs 9,000 Arizonans, and cares for the loved ones of 38,000 Arizona families.

### **1. Why does Arizona's Department of Corrections, Rehabilitation, and Reentry (ADCRR) need independent oversight?**

Oversight of ADCRR is long overdue. Arizona is facing up to \$17 million in fines and a potential federal receivership for its prison system in a decade-long lawsuit over inadequate prison healthcare. Other problems abound. In the first two months of 2021 alone,

1. ADCRR was fined \$1.1 million for failing to comply with a court order to improve healthcare in facilities;
2. ADCRR is being sued because a staff member sexually assaulted four female staff members, who allege that ADCRR did nothing to prevent or stop the behavior;
3. Whistleblowers reported that ADCRR's \$24 million database cannot calculate sentences correctly – a problem staff knew about for 18 months and were told not to report;
4. Jewish prisoners sued ADCRR because they can't get kosher meals in accordance with their faith.

### **2. What does oversight include under HB 2167?**

Oversight in HB 2167 has three components: education, inspections, and complaint investigation. The independent ombudsman can

1. Collect data from ADCRR and provide information and forms to incarcerated people and their families about the ADCRR's grievance process;
2. Inspect prisons, recommend improvements, and publish reports that are shared with lawmakers and the public; and
3. Investigate recurring complaints from inmates, staff, and families, and work with ADCRR to resolve them.

### **3. What are the limits on oversight in HB 2167?**

Oversight in HB 2167 does **NOT** include

1. Advocacy for incarcerated people – the ombudsman can only educate prisoners about the ADCRR's grievance process, not do it for them;
2. Legal representation – the ombudsman does not provide legal help, advice, or representation to people in prison or their families; or
3. Enforcement – the Ombudsman can't force ADCRR to do anything. It can't rewrite policies, laws, or budgets, or get involved in employment disputes with staff.

### **4. Isn't ADCRR's own grievance process sufficient to resolve complaints?**

Incarcerated people and their families consistently report that the ADCRR's administrative remedies process is inaccessible – grievance forms are not made available, or filed complaints are tossed in the trash or ignored by busy staff. It also takes months to resolve complaints – way too long to get help for medical needs and other emergencies.

**5. What guardrails exist for the ombudsman’s involvement in investigating and resolving complaints?**

Under HB 2167, the Ombudsman

1. Does not have to hear or get involved in any complaint
2. Is required to give people the ADCRR’s grievance forms so they can try to use ADCRR’s grievance system themselves
3. Is encouraged to work with ADCRR to try to resolve complaints
4. Is encouraged not to attempt to resolve complaints unless there is evidence that the grievance process is inaccessible or has already failed a person through no fault of their own (e.g., “Here’s the complaint I filed in prison, but I never got a response”).

**6. Are other states doing oversight like the oversight created in HB 2167?**

Yes. Texas and Ohio have agencies that inspect jails and prisons, respectively, and report publicly on needed improvements. Washington State has an independent ombudsman that works with its corrections department to investigate and help resolve ongoing complaints and concerns.

**7. Is \$2 million each year enough money to run a good oversight office?**

Yes. HB 2167’s budget for oversight is similar to that of oversight agencies doing the same work elsewhere. Last year, Ohio’s Correctional Institution Inspection Committee inspected 30 prisons with a small staff for \$460,000. Last year, Washington State’s Office of the Corrections Ombudsman investigated and assisted with prison complaint resolution for about \$1.2 million, for a prison population about half the size of Arizona’s. HB 2167 appropriates \$2 million annually so its ombudsman can perform both of these functions.

**8. Why can’t oversight be provided by a nonprofit advocacy organization or an independent consultant? Why create an oversight agency that taxpayers pay for?**

ADCRR is a 24/7 operation. Good oversight is a full-time job that will require 24/7 attention, too. An independent consultant would come in once and get a snapshot of ADCRR at only one moment in time, and would need to be funded year after year to provide repeated prison inspections and reports. An oversight ombudsman should also be impartial and trusted – it is not an advocate, but a reporter of what it observes. Nonprofit prisoner and criminal justice reform advocacy organizations are advocates – they will not be perceived as fair or trusted by correctional staff, for example. Nonprofit advocacy organizations also do not have the expertise or funding to provide continuous and thorough oversight.

**9. Isn’t Arizona’s auditor general doing oversight of ADCRR?**

The auditor general has done 22 performance reviews of ADCRR in the last 36 years. Most of these reviews were not about day-to-day conditions for staff or incarcerated people, but issues like funding, overcrowding, and understaffing. The auditor general also does not have the power to enter and inspect prisons on demand, which means ADCRR controls what they see inside. Staff and prisoners have problems every single day – many of which are urgent or life-or-death matters. ADCRR needs more oversight than the auditor general’s periodic reporting provides. The current and ongoing crises at ADCRR show that the auditor general’s oversight is not working.

### **10. Why isn't oversight from the Arizona legislature enough?**

The Arizona Legislature is a citizen legislature that only meets four months out of the year – and staff and incarcerated people in prison have serious problems 365 days a year. Arizona legislative committees rarely, if ever, hold oversight hearings regarding ADCRR. The Arizona legislature also cannot respond quickly to emergencies and crises and does not get the unfettered access to prisons that an independent ombudsman would have. An independent ombudsman is not a replacement for legislative oversight, but it should be viewed as the “boots on the ground” for lawmakers, entering prisons and returning with data, documents, and information that can help the legislature hold its own informed hearings and pass informed budgets and reforms. The current and ongoing crises at ADCRR show that legislative oversight is not working.

### **11. Why aren't the ADCRR's internal oversight measures enough?**

We wouldn't expect impartial oversight of teachers from a teachers union. We shouldn't expect ADCRR to police itself in a thorough, impartial way. ADCRR promising to inspect its own facilities or setting up its own internal hotline to handle family and prisoner complaints are positive developments, but they are not independent or objective oversight. The current and ongoing crises at ADCRR show that its own oversight measures are not working.

### **12. Doesn't oversight just coddle prisoners? And wouldn't it be used to drag the state into more lawsuits?**

Prison oversight isn't about turning prisons into palaces – or about punishing staff. It's about improving prisons so that they are safe, healthy, livable, humane places for **both staff and incarcerated people**. Prisons like this protect staff, help prisoners be productive and rehabilitate themselves, and prevent lawsuits before they begin.