



Written Testimony of Molly Gill
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In Support of HB 297
New Mexico Senate Judiciary Committee
March 12, 2023

I thank the Chair and members of the Senate Judiciary Committee for the opportunity to provide written testimony in support of HB 297, a bill to establish an independent ombudsperson to provide oversight of the New Mexico Corrections Department (NMCD). I write on behalf of FAMM, a national sentencing and corrections reform organization. **FAMM supports HB 297 and urges the committee to pass the bill.**

FAMM is a nonpartisan, nonprofit organization that advocates sentencing and prison policies that are individualized and fair, protect public safety, and preserve families. Among the policies we advocate is the establishment of independent prison oversight bodies in each state. Most of the New Mexicans who support FAMM have loved ones incarcerated in a state prison, and their top concern is that loved one's safety, health, and rehabilitation. Yet we consistently hear from our members that state prison facilities are unsafe, unsanitary, and lack sufficient medical and mental health care, staff, and rehabilitative programming. New Mexico families almost uniformly report to us difficulties in getting information about and help for their incarcerated loved ones from the staff and administration at the NMCD. The independent prison oversight envisioned in HB 297 will provide the transparency and accountability these families and taxpayers need and deserve.

Americans of all political persuasions intuitively understand the value of increased transparency and accountability in prisons: **in a recent national poll, 82 percent of Americans agreed that every prison system should have independent oversight.**¹ Independent oversight is long overdue for NMCD, an agency with a \$330 million annual budget, 6,700 incarcerated people in its care, and numerous prisons under private contract management.

Prisons are some of the darkest places, and sunlight is the best disinfectant. To be an accountable, transparent prison system that keeps us safe and has our trust, every prison system should be subject to oversight by an independent body that has “golden key access” to monitor and inspect facilities (announced or unannounced), address prisoner grievances and investigate complaints, provide recommendations for improvements, and make its reports and findings available to the public and to lawmakers. HB 297 would allow for investigations of complaints brought by incarcerated people and staff and give the ombudsperson access to people, facilities,

¹ Public Opinion Strategies, National Survey on Prison Oversight conducted for FAMM July 29-Aug. 3, 2022, <https://famm.org/wp-content/uploads/FAMM-National-Survey-Key-Findings.pdf>.

and documents in the NMCD's custody and care to investigate those complaints and report on systemic problems that endanger incarcerated people and staff.

The ombudsperson envisioned in HB 297 is similar to other fully independent prison oversight bodies in Washington State, Ohio, Pennsylvania, and New York.² States as varied as Virginia, Maryland, Missouri, Mississippi, and Arizona, among others, are currently considering similar prison oversight legislation.³

Arizona Governor Katie Hobbs just created an Independent Prison Oversight Commission via executive order because of the urgent crises confronting their prison system. Like HB 297, the Arizona commission's membership will include people directly impacted by incarceration, a correctional officers' representative, medical and mental health professionals, and members selected by the legislature and the governor.⁴

Some may oppose independent oversight by claiming that it is unnecessary because of existing oversight mechanisms. While there is value to other forms of oversight like audits, accreditation of facilities, or Prison Rape Elimination Act (PREA) inspections, these events are sporadic, often announced in advance (giving officials time to hide or fix problems beforehand), and limited in scope. The NMCD's internal oversight efforts are laudable but lack the objectivity that only an independent investigation from an outsider can bring.

Permanent, full-time independent prison oversight is needed. It can save lives and stop small problems from turning into bigger ones that trigger expensive lawsuits. Prisons operate 24 hours a day, 365 days a year, with public safety and the lives and well-being of thousands of staff and incarcerated people hanging in the balance. Corrections staff and incarcerated people and their families have daily concerns about health, safety, access to medical and mental health care and rehabilitative programming, lack of responsiveness to complaints, and other issues that can compound to become long-term, system-wide problems. Neglected daily concerns of both corrections staff and incarcerated people can even be life-threatening. An annual audit, accreditation, or inspection is insufficient to identify and fix the problems and shortcomings staff, incarcerated people, and their families are living with day-in and day-out.

Independent oversight benefits everyone it touches. Corrections staff deserve a safe, healthy work environment and need a place to go with complaints that, for whatever reason, are squashed, unanswered, or ignored by the administration. Incarcerated people have a constitutional right to a safe, healthy, humane prison environment and need a place to go when the NMCD grievance process breaks down or they have no safe place to turn to for help. Families of incarcerated people need someone to call when they cannot get help for their loved

² For a complete list of current independent prison oversight authorities, see Michele Deitch, *But Who Oversees the Overseers?: The Status of Prison and Jail Oversight in the United States*, at 259, <https://utexas.app.box.com/v/ButWhoOverseesTheOverseers>.

³ FAMM, *Prison Oversight Legislation Tracker*, <https://docs.google.com/spreadsheets/d/1bQLE3bPPNU2IlnTqDPBXnLBoaCcaZ-6qSwT3AEJVuZ4/edit#gid=1674058966> (last updated Jan. 20, 2023).

⁴ Gov. Katie Hobbs, *Executive Order 6 Establishing the Independent Prison Oversight Commission*, Jan. 25, 2023, <https://azgovernor.gov/office-arizona-governor/executive-order/6>.

one despite following all of the NMCD's rules. Oversight encourages increased professionalism at every level of an agency.

Lawmakers also benefit from independent prison oversight. A prison ombudsperson can be the eyes and ears of the legislature 365 days a year, reporting back on how prisons are really operating and how money is really being spent. Lawmakers need this steady feedback and insight into a large, expensive agency that can often be opaque and unresponsive.

We hope the legislature will adopt HB 297 this year to begin making the state's prisons more transparent and accountable.