

# **TEXAS DEPARTMENT OF CRIMINAL JUSTICE**

## **Safe Prisons Program Fiscal Year 2013**



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# Safe Prisons Program

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## **SAFE PRISONS PROGRAM**

### **Correctional Institutions Division**

The Texas Department of Criminal Justice (TDCJ) operates a Safe Prisons Program for the purpose of preventing and limiting offender-on-offender sexual abuse, physical assaults and extortion. The TDCJ strives to maintain the safety and security of all offenders incarcerated within the agency.

The components of the Safe Prisons Program are as follows:

#### **I. Education of Correctional Officers and staff about the importance of preventing sexual abuse, extortion and offender physical assault.**

The education of correctional officers and staff on the importance of preventing sexual abuse, extortion and offender physical assaults is one of the primary objectives of the Safe Prisons Program. A key component of the objective is the reliable transmittal of information from the Safe Prisons Program Management Office (SPPMO) to the facility staff. To accomplish this objective notices to staff are routinely distributed at agency meetings regarding the Safe Prisons Program and the TDCJ's policy regarding offender protection issues.

Sexual abuse awareness posters (in both Spanish and English) are posted in all facilities in areas readily accessible to staff as well as offenders. These posters are intended to raise awareness of the issue of sexual abuse, provide direction regarding various methods to report allegations and emphasize the agency's "zero-tolerance" policy on sexual abuse within its correctional facilities. The agency requires facility administrators to display the posters in strategically located areas identifying an individual at the facility level, and at the agency headquarters, who the offender, staff and visitors can contact to report allegations of sexual abuse.

The Correctional Training and Staff Development (CTSD) Department provides practical and relevant training services to correctional officers and supervisors in order to prepare them to support and carry out the mission of the TDCJ. The TDCJ recognizes that to be successful in providing safety and security to the offender population requires competent, well-trained, uniformed and non-uniformed correctional staff. Within the CTSD Department are five instructional training programs, each designated to facilitate specialized targeted training to respective unit correctional staff, providing them the information and skills necessary to perform their duties and functions safely and effectively within the offender population. The five instructional training programs offered are as follows:

- *Pre-Service Training Program*
- *In-Service Training Program*
- *Leadership Development Training Program*
- *Specialized Training Program (does not include Safe Prisons topics)*

- *Ancillary Training Program*

One of the goals of the training is to provide a comprehensive, but concise overview of the Safe Prisons Program and its initiatives. Topics of discussion include identifying, addressing, and preventing sexual abuse, extortion, predation on offenders, and the Prison Rape Elimination Act (PREA). In addition, the physical characteristics of both the potential sexual abuse victims and potential predators are presented to aid in the assignment of offenders. Specific strategies are discussed in order to enhance the identification, investigation, prosecution and prevention of sexual abuse in prison.

The table below provides Fiscal Year (FY) 2013 statistics related to CTSD instructional training programs containing Safe Prisons Program curriculum.

### **FY 2013 CTSD Training Statistics**

<b>CTSD Training Programs with Safe Prisons Program Curriculum</b>	<b>FY 2013</b>	
	<b>Total Classes Conducted</b>	<b>Total Participants Completing</b>
<b>Pre-Service Training</b>	152	5,598
<b>In-Service Training</b>		
Non-Supervisor	1,015	23,074
Supervisor	297	5,214
CTSD Instructor In-Service	2	155
<b>Leadership Development Training</b>		
Sergeant, Food Service, and Laundry Manager Training Academy	12	765
Lieutenant Command School	4	100
Correctional Administrator Preparedness Training	3	58
Advanced Management Training for Majors	3	124
Assistant Warden Annual Training	3	129
<b>Ancillary Training Program</b>		
Staff Survivor	150	1,340
Correctional Awareness	29	391
Gender Specificity Training	n/a*	392

\* *Completion of Gender Specificity training is documented by date only. Employees are not enrolled into a specific class.*

The TDCJ video “Safe Prisons in Texas” re-enforces the agency’s zero tolerance policy against sexual abuse and illustrates the agency’s support of the Safe Prisons Program initiatives. In FY2013, the TDCJ revised the existing “Safe Prisons in Texas” staff educational video.

Some of the added topics in the newly titled “Safe Prisons/PREA in Texas” video includes the TDCJ zero-tolerance policy for sexual abuse and sexual harassment; staff and offenders’ right to be free from retaliation for reporting sexual abuse and sexual harassment; dynamics of sexual abuse and sexual harassment; and how to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, intersex, and gender nonconforming offenders. The revision was implemented in August 2013 for viewing by correctional staff during Pre-Service and In-Service training.

The SPPMO and regional coordinators conducted quarterly trainings for unit safe prisons program coordinators (USPPC). The training provided staff with policy and procedure discussions on topics such as sexual abuse and extortion prevention; investigative report writing; interviewing techniques, data collection and mainframe applications related to tracking victim and predators.

The SPPMO developed a sexual abuse pocket card for distribution to correctional staff in FY 2010. The pocket card documents the agency's zero tolerance policy on sexual abuse; steps to take if a sexual abuse occurs; definitions for the Safe Prisons Program, sexual abuse and the PREA. The pocket card also contains a list of sexual assault/abuse red flags providing staff with cues regarding victim, predator and staff behaviors and characteristics.

### **Safe Prisons Plan and Operations Manual**

Prior to January 2005, several separate agency policies and procedures addressed protection of offenders. In January 2005, the *Safe Prisons Plan* was approved. The plan encompasses previous policies and procedures, as well as new processes that have evolved since the inception of the SPPMO, creating one cohesive strategy for providing staff and offender safety. The plan is periodically updated and reflects the agency’s commitment to reduce incidents of extortion, protect offenders who are at increased risk of harm by others, take a proactive approach to prevent sexual abuse of offenders, address the needs of offenders who have been sexually abused, and make violators subject to criminal charges, civil liability and disciplinary action. Additionally, the TDCJ developed and implemented a Safe Prisons Operations Manual containing instructional guidelines and processes to enhance the overall effectiveness of the Safe Prisons Program.

The plan and operations manual sets forth the guidelines and procedures for investigating requests from offenders alleging increased risk of harm (e.g., sexual abuse, extortion and physical assault) from other offenders. It also encompasses procedures to follow when a staff member is notified by other means (other than from the offender himself) that an offender’s safety has been threatened. The policy provides different options for staff to take in order to protect an offender from harm and discusses when it is appropriate to use each option. The options include, but are not limited to:

- a. Verbal intervention between offenders who are having a conflict;

- b. Changes in the housing assignments of one or more offenders within their housing area or other housing area of the same custody level, as well as changes to an offender's work assignment or work-shift hours;
- c. Placement of aggressive/assaultive offenders in administrative segregation or review for a change of custody (e.g., due to major disciplinary offenses);
- d. Transfer to another unit;
- e. Assignment to safekeeping status;
- f. Assignment to administrative segregation – protective custody; or
- g. Recommendation for transfer pursuant to the Interstate Corrections Compact.

The TDCJ is currently revising the *Safe Prisons Plan* and the *Safe Prisons Operations Manual* in response to the National PREA standards. The newly titled *Safe Prisons/PREA Plan* is scheduled for implementation in FY2014.

**II. Education of newly received offenders on the risks of sexual assault, as well as the prosecution process.**

Available in English and Spanish, the *Offender Orientation Handbook* is provided to all offenders upon admission. The handbook includes information related to offender protection, sexual abuse prevention, reporting and perpetrator consequences for engaging in sexually aggressive behavior. The information is also provided during the new unit of assignment orientation process.

**III. Use of offender characteristics common to offender sexual assault victims in making housing and job assignments.**

The following policies establish the use of offender characteristics in making housing and job assignments:

Administrative Directive (AD)-04.17, "Offender Housing Assignment Criteria and Procedures"

- ◆ "Housing assignments shall be made on the basis of an offender's total record and as required by the offender's current needs and circumstances, as reflected in the offender's unit/facility file, Health Summary for Classification form, the information contained in the offender's computerized classification record...and unit/facility record, in order to ensure that each offender receives appropriate and adequate safety, supervision and treatment."
- ◆ "The following are criteria relative to offenders' security characteristics which, in addition to custody designation, shall be considered in making housing assignments:
  - a. Criminal history;
  - b. Current offense (type and seriousness), sentence length and amount of time completed on sentence;
  - c. The offender's age and number of prior adult incarcerations;

- d. Violent or passive tendencies;
- e. Criminal sophistication;
- f. Offender enemies;
- g. Homosexual (both active and passive) tendencies;
- h. Physical characteristics such as height and weight;
- i. Security threat group affiliation;
- j. Current institutional adjustment, as reflected in the offender's disciplinary record; and
- k. Special safety requirements."

AD-04.68, "Offenders Requiring Single-Cell Housing":

- ◆ "This policy outlines those categories of offenders who require a single-cell due to vulnerability, medical or mental health problems, developmentally disabled, or other reasons related to offender health, safety, or security, in accordance with state law and TDCJ plans and policies."
- ◆ Characteristics related to weakness and vulnerability (e.g., offenders who are easily exploited due to age, size, developmental impairment, physical weakness, sexual preference, and other similar traits) shall be considered in making the discretionary determination to single-cell offenders in safekeeping.

AD-04.18 (rev. 5), "Offender Jobs: Assignments, Job Descriptions, Selection Criteria, Work Programs and Supervision"

- ◆ "The TDCJ shall provide work opportunities and establish offender job programs in accordance with state and federal law. Job assignments shall be based on rational and objective criteria and in such a manner as to ensure that the safety, security, treatment and rehabilitative needs of the offenders are met."
- ◆ The following security-related criteria shall be considered in making job assignments:
  - a. Custody;
  - b. Security precaution designators;
  - c. Criminal history, to include all prior adult incarcerations;
  - d. Current offense, length of sentence and time served on sentence;
  - e. Violent or passive tendencies;
  - f. Offender enemies;
  - g. Security Threat Group (STG) affiliation;
  - h. Current institutional adjustment, as reflected in the offender's disciplinary record; and
  - i. Special safety requirements.

#### **IV. Use of an offender's assault history in making housing assignments.**

The use of an offender's assault history in making cell assignments is set forth in the following policies:

##### AD-04.17, "Offender Housing Assignment Criteria and Procedures"

- ◆ "Unless there are specific mitigating circumstances, an offender shall not be assigned to dormitory housing at an ID unit, irrespective of his custody designation, if:
  1. The offender has been convicted within the previous 12 months of a disciplinary offense involving possession of a weapon; or
  2. The offender has been convicted within the previous 24 months of a disciplinary offense involving either assault with a weapon or aggressive (or assaultive) sexual misconduct; or
  3. The offender demonstrates a recent pattern of in-prison assaultive behavior."

##### Safe Prisons Plan:

- ◆ "Placement of Aggressive/Assaultive Offenders in Administrative Segregation or Change of Custody Due to Major Disciplinary Offenses.

A change of custody for the offender-aggressor in accordance with the *Disciplinary Rules and Procedures for Offenders* and *Classification Plan* is also an option. Instead of placing the more vulnerable offender in another housing area, this option removes the offender who has engaged in aggressive or assaultive behavior. Although a change in custody cannot be effected by unit/facility administration, it may be authorized by the Unit Classification Committee (UCC) without further approval unless it involves placing the aggressor in administrative segregation (maximum custody). Assignment of an offender to administrative segregation shall be conducted in accordance with the *Administrative Segregation Plan*. Removing the aggressor not only protects the offender specifically found to be at risk, but other offenders in their housing area as well. Additionally, placing the offender-aggressor in a more restrictive custody classification (G4, G5 or administrative segregation) will limit their opportunity to victimize other offenders and encourage them to modify their aggressive behavior."

#### **V. Use of protective custody or safekeeping status.**

Protective custody is a classification available within administrative segregation for those offenders who require separate housing from the general population due to threats of harm by others or the likelihood of victimization. These offenders require a higher degree of safety and security in a more controlled environment than general population offenders do in order to provide for their protection.

Safekeeping status is a general population housing status assigned to offenders who need protection from other offenders, and whose need for protection could be met by housing them separately in the general population. Offenders assigned to safekeeping status are separated from other general population offender by housing assignment. This separation makes it difficult for general population offenders to enter their housing areas. In addition, safekeeping offenders receive their recreation time and meals apart from the general population.

The following factors are taken into consideration as well as any other relevant circumstances prior to placement in protective custody or safekeeping:

1. Any objective evidence discovered during an investigation that would indicate an offender is being extorted or victimized. Examples of objective evidence include visible physical injuries, medical reports, commissary account records, witness accounts and other similar evidence;
2. Offender's physical size;
3. Mental/physical impairments;
4. Age/first time offender;
5. Sexual orientation (claims of homosexuality should be corroborated by permanent records, disciplinary reports or any other evidence to support homosexual activity).
6. Determination whether the problem is unit or geographic specific. If an offender's alleged problem is confined to a specific individual, alternatives such as cell changes or unit transfer could alleviate the situation;
7. Factors that would preclude an offender's placement into safekeeping. For example, it would not be prudent to recommend safekeeping for an offender who has a felony conviction for sexual assault of another offender; or
8. An offender's previous history in safekeeping status on prior commitment.

Staff from the Classification and Records Department produces a monthly activity report that tracks:

1. Requests for protective custody/safekeeping/transfers;
2. Offenders placed in protective custody/safekeeping/transfers;
3. Offenders denied protective custody/safekeeping/transfers;
4. Requests that include allegations of extortion, sexual assault and violence; and
5. Times an offender has signed a waiver stating that he no longer needed protection.

The *Classification Plan* sets forth the characteristics and boundaries of protective custody and safekeeping, while the *Safe Prisons Plan* discusses the procedures to be used in assisting offenders who may need protection.

## **VI. Use of surveillance cameras.**

As of August 31, 2013, there were 8,273 surveillance cameras on units across the state. Of these, 4,246 are in housing areas (dormitory and cell block areas). In FY 2013, the TDCJ installed comprehensive video surveillance systems at the McConnell Unit. Installation of comprehensive surveillance systems at the Coffield, Connally, Allred and Telford units is in progress. Following completion of existing projects the total number of cameras on facilities will increase to 10,508. This equipment will not only enhance efforts to prevent contraband from entering the TDCJ correctional facilities, it will increase offender and staff safety by substantially increasing the number of surveillance cameras on targeted maximum security institutions.

## **VII. Education of correctional officers and staff on the care and protection for offenders who have been assaulted.**

- ◆ Staff are oriented on and required to be familiar with the *Safe Prisons Plan*. This policy sets forth the philosophy of the TDCJ regarding the duty to protect offenders. It also sets forth guidelines and procedures for investigating allegations of offender victimization and measures to prevent an offender from being victimized.
- ◆ A lesson plan entitled “Offender Victim Representatives Sexual Abuse Training” was designed to develop appropriate skills in psychologists, sociologists, chaplains, social workers and case managers to provide counseling and other support services for an offender who alleges sexual abuse and undergoes a forensic medical exam. State law identifies offender victim representatives as psychologists, sociologists, case managers, and chaplains. The SPPMO and the TDCJ sexual assault nurse examiner (SANE) coordinator facilitate training annually for all newly designated offender victim representatives. The Offender Victim Representative (OVR) curriculum was recently revised to include added information regarding the effects of trauma on the brain and classroom activities. The SPPMO sought assistance from the Texas Association Against Sexual Assault (TAASA) by requesting review of the course revisions to ensure accuracy of course information. TAASA provided several recommendations regarding presentation flow which was applied to the 2014 curriculum revision. Training for new OVR’s began February 2014.
- ◆ The CTSD Department Pre-Service program consists of a Health and Wellness – Suicide Prevention lesson that includes a 14-minute video entitled “Responding to Offender Suicides and Attempted Suicides” that details the responsibilities of staff in these critical situations. The TDCJ provided training on suicide prevention to 5,598 new cadets and 23,074 veteran correctional officers during pre-service and in-service academies in FY 2013. In addition, 5,214 correctional supervisors participated in suicide prevention training during in-service.
- ◆ Pamphlets placed in visiting areas in various prison units, state jails and private facilities include “Suicide Prevention – How You Can Help” to assist families in identifying risk factors for incarcerated loved ones who may be suicidal.

- ◆ Pocket cards containing suicide risk factors have been distributed to all TDCJ units. The pocket cards help alert staff to offenders who may exhibit signs or symptoms that put them at risk for suicide.

### **VIII. Tracking and reporting of alleged sexual abuse.**

Organizationally, the director of the Correctional Institutions Division (CID) serves as the Safe Prisons Program coordinator. The SPPMO conducts statistical analysis of alleged sexual abuse; monitors each alleged incident to ensure agency compliance with current policies; identifies issues for further policy development; and facilitates training and awareness programs for staff and offenders.

Alleged sexual abuse and other serious/unusual incidents are reported to the Emergency Action Center (EAC). Initially, all incidents of alleged sexual abuse are reported to EAC, who forwards the reports to the SPPMO, the Office of Inspector General (OIG) and the PREA ombudsman. After reviewing the allegations, the OIG advises the TDCJ of those incidents that meet the elements of the penal code. In addition to reports received through EAC, the OIG receives reports through other sources. Information reported to OIG from other sources is not processed through EAC; however, it is reconciled monthly for statistical purposes. Alleged sexual abuse reported through EAC requires an administrative review. An administrative review is a detailed report that is submitted by the warden through the appropriate regional director to the EAC. Any findings requiring recommendations or corrective action must have a follow-up within 90 days to the deputy director, CID – Prison and Jail Operations.

Allegations of sexual abuse are investigated by the OIG. During the investigation, OIG will determine if the incident meets the elements of a felony penal code violation. If probable cause is established or if there is sufficient information to make a determination regarding the allegation, the formal criminal felony investigation is presented to the Special Prosecution Unit (SPU) or the local district attorney for possible prosecution.

The deputy director, of Prison and Jail Operations and the deputy director, of Management Operations, review all administrative review reports regarding sexual abuse within the TDCJ facilities. In addition, the PREA ombudsman reviews the administrative reviews associated with allegations of sexual abuse.

Classification designators have been developed for electronic notification and tracking of sexual predators, potential sexual predators and potential sex victims on the mainframe. This designator will better enable the unit administration to identify offenders who are more likely to be sexual predators and victims.

### **IX. Other Initiatives**

The Safe Prisons Program Council provides guidance to the SPPMO and to executive administrative staff on the issue of prison sexual abuse.

Individuals serving on the council are criminal justice professionals who possess a wide array of educational and professional backgrounds and expertise. Since its inception in November 2003, the council has adopted as their mission: “To establish and implement a zero tolerance standard on sexual abuse and predatory behavior by collecting, analyzing and disseminating information for evidence-based decisions; and by promoting and delivering training and education that contributes to positive change in institutional culture and safer prisons.”

A sexual predator database/mainframe application helps in the process of identifying potential predators and victims on the facilities. The database is a collaborative effort between the SPPMO, Classification & Records and the OIG, the law enforcement arm of the TDCJ. All allegations of sexual abuse are referred to the OIG for investigation, those offenders identified as potential predators by the OIG are then identified by the Safe Prisons Program manager on the TDCJ mainframe system. This identification assists in decisions regarding housing or programmatic assignments both within the institutions and post-release. The mainframe application includes tracking of extortion predators and victims.

The SPPMO conducts analysis of all alleged sexual abuse incidents. The analysis identifies trends related to the time of day allegations are more likely to be made, physical location, and custody classes with a higher rate of alleged sexual abuse reports. This information is passed on to the units to enable them to make decisions related to their building schedules, physical plants and housing assignments.

The SPPMO identifies trends related to the age, height and weight of both victims and predators. This information is passed on to the facilities to make staff aware of these physical characteristics when determining housing assignments.

Medical services are provided to offenders through the university medical school health care providers. Medical services personnel oversee any medical examination and administration of a forensic collection kit performed in response to an allegation of sexual assault. Information obtained from the offender during the medical interview, evaluation and examination are shared with OIG investigators. In order to enhance coordination of the medical process with security personnel, the TDCJ officials hired a sexual assault examination coordinator who is a licensed registered nurse and a certified sexual assault nurse examiner. The Office of the Texas Attorney General’s Sexual Assault Prevention and Crisis Services coordinates the certification training. The nurse is responsible for planning and implementing training for unit level nurses, mid-level practitioners (physician assistants and advanced practice nurses) and physicians. The training for clinical staff includes the proper techniques for performing the examinations, collecting samples, chain of custody procedures and testifying in court. The curriculum is specific to the gender of the offender assigned to each facility and contains information relevant to the prison population, culture and setting. Health care administrative staff are included in general training topics. The coordinator is also responsible for providing liaison functions with non-health care departments in the TDCJ.

During Fiscal Year 2013, the sexual assault examination coordinator conducted 62 In-Service sessions on forensic medical examinations with 942 medical and mental health professionals attending.

Agency policy requires correctional staff to notify the OIG staff immediately following an alleged sexual abuse report. Upon notification of an alleged sexual abuse, the OIG staff begins the investigation process through the collection of information obtained in one-on-one interviews with the victim and alleged perpetrator. The OIG staff are responsible for determining the need for a sexual assault evidence collection exam to be performed by medical staff. The OIG investigator may consult with the onsite medical personnel regarding the necessity of such an exam. The location of the alleged sexual abuse is secured and checked for any evidence, which is collected. Upon receipt of all investigative data, the OIG investigator reviews the information to assess whether it meets the elements of an offense.

Additionally, the OIG investigators coordinate with security personnel to take measures to prevent offender on offender assaults through enhanced surveillance equipment and investigative tools. An additional staff member (grant-funded) was hired to manage the collection, maintenance, analysis and dissemination of data obtained during criminal investigation of alleged sexual abuse. In an effort to enhance the current investigative process, the OIG investigators participate in training to enhance staff knowledge and skill level regarding evidence detection/collection, securing a crime scene and interviewing sexual abuse victims. This training is intended to compliment training that is received by the staff from the SPU. Similar to other groups participating in training, the OIG investigators share lessons learned with correctional staff.

The OIG case management system assists in tracking and providing statistical information needed for sexual assault cases. In addition, OIG investigators are trained so they could obtain certification as a sexual assault/family violence investigator.

The TDCJ collaborates with several community-based organizations on an Human Immunodeficiency Virus (HIV) offender peer education program. The program concept provides for offenders being trained as peer educators to share information to their counterparts on such topics as infectious diseases, sexually transmitted diseases and other health related topics. The program includes training offender peer educators; increasing the knowledge level of the peer educators and recipients of the training session; and expanding the number of topics addressed.

The agency provides a similar peer education program as a component of the Safe Prisons Program. Officials partnered/contracted (grant-funded) with local community-based organizations to assist with the development of a curriculum, printing of attendant training materials, and to provide training (three hours) to peer educators.

The Sexual Assault Abuse Curriculum - Peer Education Program utilizes offender peer educators to discuss issues of prevention, reporting, and state and federal laws pertaining to sexual abuse.

This direct intervention helps change certain perceptions and attitudes among the offender population regarding prison sexual abuse. Due to the success of this concept with other prison based initiatives, the TDCJ implemented the peer education program at units with the highest rates of reported sexual abuse. In FY 2013, 445 new offender peer educators were trained with a total of 1,300 peer educators system wide.

In FY 2013, peer educators conducted 3,116 Sexual Abuse Awareness classes with 64,480 offender participants attending. The Sexual Abuse Awareness curriculum is currently being provided in 96 state and private contract correctional facilities. In addition, a Spanish Sexual Abuse Awareness curriculum was developed and implemented to assist Spanish speaking offenders with limited English proficiency. In FY 2013, 503 Spanish Sexual Abuse Awareness classes were conducted with 2,303 offender participants attending. In addition, the Sexual Abuse Awareness class was incorporated into the Gang Renouncement and Disassociation (GRAD) process during Phase II of the program. In FY 2013, a total of 20 Sexual Abuse Awareness classes were conducted during Phase II with 370 offender participants attending. A peer education coordinator manages the peer education services and monitors performance of program operations. The peer education coordinator works in collaboration with the agency's Health Services Division to update the curriculum as required.

The National Institute of Corrections (NIC) video toolkit for offenders titled "Speaking Up - Discussing Prison Sexual Assault" is provided in male, female, and Spanish versions. This toolkit is designed to assist facility staff in educating offenders on federal, state, and local sexual assault laws, policies and practices. The TDCJ has distributed Speaking Up video toolkits to all units, including privately operated facilities. The videos are utilized to enhance the Sexual Abuse Awareness classes and provide additional training opportunities for incarcerated offenders.

In FY2013, the Safe Prisons Program Management Office collaborated with the Media Services Division in the production of an offender educational video, titled Safe Prisons/PREA Offender Training. The video explains the TDCJ zero tolerance policy regarding sexual abuse and sexual harassment. Additionally, offenders will learn how to report incidents or suspicions of sexual abuse and sexual harassment; understand their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents. Furthermore, offenders will gain knowledge of TDCJ policies and procedures for responding to issues of sexual abuse and sexual harassment. This 19-minute educational video is scheduled for completion and implementation during FY2014 and will be provided in both English and Spanish formats.

The SPPMO takes an active role in ensuring that appropriate services are provided to offender victims of sexual abuse. For example, the SPPMO collaborated with CTSD, Health Services Division and Victim Services Division to develop an approved training curriculum for offender victim representatives who provide support and resources to offenders that are administered an evidence collection kit due to an alleged sexual abuse incident. The TDCJ continues to educate additional staff to ensure adequate services are available at each of the agency's units to address the victim's needs.

Offenders processed for admissions into the TDCJ receive an Offender Orientation Handbook that is designed to inform them of prison life, agency policies and their roles and responsibilities. The TDCJ conducts an enhanced offender orientation process at 24 major intake facilities that deliver a formal presentation on prison life. The ten-hour curriculum is comprised of two segments: a five-hour video or live presentation conducted by an individual employee illustrates general information documented in the Offender Orientation Handbook, and a five-hour peer education segment that includes the Sexual Abuse Awareness curriculum and a comprehensive educational awareness segment on health services topics. In addition, offenders receive the Sexual Abuse Awareness brochure containing information on sexual abuse prevention, reporting and what steps to take if an assault occurs.

## **X. Prison Rape Elimination Act of 2003**

On September 4, 2003, President George W. Bush signed PREA into law (Public Law 108-79) to address the issue of sexual violence in prisons. Two key components of the act were the appointments of the National Prison Rape Elimination Commission (NPREC), and the Review Panel on Prison Rape.

The Commission or NPREC is a bipartisan panel created by Congress and charged with studying federal, state and local government policies and practices related to the prevention, detection, response and monitoring of sexual abuse in correction and detention facilities in the United States. The Commission completed the study and reported its findings, conclusions and recommendations to the United States President, United States Congress, the United States Attorney General and other federal and state officials.

The Commission conducted eight public hearings between June 2005 and December 2007. The purpose of the hearings was to gather documentation and listen to testimony of correctional professionals and offender advocacy groups to assist in the preparation of the report and the drafting of the standards. The TDCJ administrators participated in three of the hearings; assisted the Commission in FY 2008 by providing documents utilized in preparing the standards, and submitted an agency response to the request for public comments on the draft of the PREA Standards. In addition, the Allred Unit in Iowa Park, Texas was chosen to participate in the Standards Implementation Needs Assessment (SINA) Project in June 2008, which provided unit staff the opportunity to speak directly with representatives drafting the PREA Standards to discuss the possible effects the implementation of the standards would have on correctional facilities.

The three member Review Panel on Prison Rape was created to conduct hearings on prison rape and to interview officials who oversee the three facilities with the highest incidence of prison rape and the two facilities with the lowest incidence of prison rape in prisons, jails, and community corrections facilities.

The Bureau of Justice Statistics (BJS) conducted a National Inmate Survey (NIS) in the spring of 2007, which provided a special report to the Panel in December 2007 to assist in determining the facilities that will participate in the Panel hearings. The NIS is a self-administered survey that provides anonymity to respondents and encourages the reporting of victimization. The survey collects reports of sexual violence directly from the inmates, utilizing an Audio Computer-Assisted Self Interview (ACASI) process in which inmates interact with a computer-assisted questionnaire. A total of 146 state and federal prisons participated in the survey, with 15 of those facilities in Texas. As a consequence of the sampling error, the survey could not provide an exact ranking for all facilities as required under the PREA. However, the survey did provide the ability to statistically identify a small group of facilities with the highest rate of sexual victimization of 9.3% or greater. The report identified five correctional facilities in the state of Texas among the top ten facilities in the nation meeting this criterion.

The Panel conducted hearings in Washington, D.C. and Houston, Texas in the spring of 2008 with the TDCJ administrators and unit officials from the five facilities in Texas participating in the hearing in Houston. The hearing included a visit to a local prison facility, and testimony from TDCJ administrators and employees. In addition, the TDCJ provided documentation on existing policies and procedures; information related to the reporting and processing of administrative and criminal investigations of allegations of sexual abuse, and reports on grievances and disciplinary cases concerning sexual abuse alleged against offenders or staff.

The Panel published its findings and policy recommendations in its *Report On Rape In Federal And State Prisons In The U.S.* in August 2008. The Panel identified several common characteristics of victims of inmate-on-inmate prison rape, which may include one or more of the following:

- ◆ Physical attributes (height, weight);
- ◆ Smaller inmates housed with larger cellmates;
- ◆ Age of the victim in contrast to the assailant;
- ◆ Nature of the victims current offense;
- ◆ History of prior incarceration;
- ◆ Mental illness or physical limitations;
- ◆ Lack of gang affiliation or social support;
- ◆ Low self-confidence, or
- ◆ Vulnerability to extortion.

In addition, the Panel identified common characteristics of inmate sexual assault perpetrators. The study indicated:

- ◆ Larger inmates are more prone to assault smaller cellmates;
- ◆ Inmates that have a history of committing sexual offenses or engaging in sexual misconduct are at higher risk of committing sexual abuse;
- ◆ Inmates with a history of incarceration are more prone to engage in sexual abuse;

- ◆ Inmates with a history of engaging in violence are more prone to engage in sexual violence;
- ◆ Inmates that engage in extortion are more prone to engage in sexual abuse;
- ◆ Inmates' gang affiliation may determine if they are more prone to engage in sexual abuse, and
- ◆ Inmates exhibiting aggressive attitudes during the intake process are more prone to engage in sexual abuse.

The Panel concluded its report with recommendations to policymakers and correctional administrators based on information and testimonies obtained from the hearings. In June 2009, the Commission submitted their final report and recommendations for National PREA Standards to the United States Attorney General.

### **National Inmate Survey - 2**

The BJS conducted its second round of National Inmate Surveys (NIS-2) between October 2008 and December 2009. There were 167 state and federal prisons, 86 jails, and ten special confinement facilities operated by Immigration and Customs Enforcement, the U.S. Military, and correctional authorities in Indian country that participated in the survey, with 19 of those facilities in Texas. The survey provided facility rankings with eight male prisons, two female prisons, and six jails identified as "high rate" facilities based on survey responses regarding the prevalence of inmate-on-inmate sexual victimization and four male prisons, two female prisons, and five jails identified as "high rate" based on the prevalence of staff sexual misconduct. The report, titled *Sexual Victimization in Prisons and Jails Reported by Inmates, 2008-09*, which was made public in August 2010, identified three male correctional facilities in the state of Texas among the "high rate" of inmate-on-inmate sexual victimization and one male correctional facility with a "high rate" of staff sexual misconduct. Seven male prisons, four female prisons and nine jails were identified as "low rate" facilities based on a small percentage of inmates reporting any sexual victimization by another inmate or staff. Three of the Texas correctional facilities were identified among the "low rate", which included one male facility and two female facilities.

The Panel conducted hearings in Washington, D.C. in the spring of 2011 with TDCJ administrators and unit officials from one facility identified in the "high rate" and one facility with "low rate" participating in the hearing. The hearing was preceded with a unit visit from a member of the Panel and staff associated with the Department of Justice (DOJ) on the two facilities selected to testify in Washington, D.C. In addition, the TDCJ provided documentation on existing policies and procedures; information related to the reporting and processing of administrative and criminal investigations of allegations of sexual abuse, and reports on grievances and disciplinary cases concerning sexual abuse alleged against offender or staff. The Panel published its findings in the Review Panel on Prison Rape's *Report on Sexual Victimization in Prisons and Jails* in April, 2012.

### **National Inmate Survey - 3**

Data collection for the third round of the National Inmate Surveys (NIS-3) for 22 randomly selected Texas facilities began November 7, 2011 and continued through April 13, 2012. Key elements of the NIS-3 included random samples of inmates who are 16 years old or older housed in adult facilities, as this population had not been included in any previous PREA study. In addition, the survey instrument was modified to include measure of mental and physical health, as well as indicators of facility safety and security. The data collected from the NIS-3 was intended to provide additional information on inmate risk factors and identify facility characteristics related to variations in sexual victimization.

In May 2013, the BJS released its final report, titled *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12*. The report highlighted a sample of 241 state and federal prisons was drawn to produce a sample representing approximately 10% of the 1,158 state and 194 federal adult confinement facilities. The survey was conducted by the RTI International as in the previous two surveys. The survey was administered to 106,532 offenders ages 16 or older, with 43,721 of those offenders specifically incarcerated in 233 state and federal prisons with the remaining 62,811 offender incarcerated in jails, ICE, Indian country jails, and military facilities.

Nationwide results of the NIS-3 indicated seven male prisons and six female prisons were identified as “low rate” facilities based on a small percentage of offenders reporting any sexual victimization by another inmate or staff, with the TDCJ having one female prison identified in this category. Nationally, 11 male prisons and one female prison were identified as “high rate” facilities based on the reported prevalence of inmate-on-inmate sexual victimization, with the TDCJ having three male prisons identified in this category. Eight male prisons and four female prisons were identified as “high rate” facilities based on the reported prevalence of staff sexual misconduct, with the TDCJ having two male prisons identified in this category.

### **PREA Standards**

The proposed Standards titled “*Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Adult Prisons and Jails*” are separated into five categories; 40 standard statements; an assessment checklist for each standard statement; and a discussion of each standard. The discussion provides explanation for the rationale of the standard and offers guidance for achieving compliance which provides commentary and guidance.

In March 2010, the DOJ published an Advance Notice of Proposed Rulemaking (ANPRM) to solicit public input on the Commission’s proposed national standards prior to publishing a final rule adopting the standards. The DOJ welcomed all comments, including comments addressing specific standards proposed by the Commission. In May 2010, the agency submitted its comments on 13 of the 40 standards. In addition, the DOJ specifically requested comments regarding three general questions.

Following receipt of approximately 650 comments, the DOJ carefully considered each comment and modified the NPREC proposed standards. On February 3, 2011, the DOJ published the Notice of Proposed Rulemaking (28 CFR Part 115) to propose such national standards for comment and to respond to the public comments received on the ANPRM. The TDCJ had relatively few issues relating to the recommendations offered by the DOJ because most of the recommendations were similar to agency policy. For this reason and because the DOJ considered the comments submitted in 2010, the TDCJ had few issues relating to the proposed national standards.

On May 16, 2012, the DOJ released its final rule adopting national standards to prevent, detect, and respond to sexual abuse in confinement facilities, pursuant to the Prison Rape Elimination Act of 2003. Subpart A, Standards for Adult Prisons and Jails contain 44 operational standards within 11 distinct sections contained in the following list:

1. Prevention planning;
2. Responsive planning;
3. Training and education;
4. Screening for risk of sexual victimization and abusiveness;
5. Reporting;
6. Official response following an inmate report;
7. Investigations;
8. Discipline;
9. Medical and mental care;
10. Data collection and review; and
11. Audits.

PREA Standards require state governors to certify full compliance with the standards or be subject to the loss of five percent of any DOJ grant funds that would otherwise be received for prison purposes, unless the governor submits an assurance that such five percent will be used only for the purpose of enabling the state to achieve and certify full compliance with the standards in the future. The preliminary review indicated the agency was already substantially compliant with most of the standards.

## **PREA OMBUDSMAN**

The 80<sup>th</sup> Texas Legislature passed legislation in 2007 establishing the appointment of an ombudsperson to the Texas Board of Criminal Justice (TBCJ). The primary purpose of the ombudsperson is to coordinate the agency's efforts to eliminate the occurrence of sexual abuse in correctional facilities. The primary responsibilities of the ombudsperson are to: (1) monitor agency policies for the prevention of sexual abuse in correctional facilities (2) oversee the administrative investigation of inmate complaints of sexual abuse (3) ensure the impartial resolution of offender complaints of sexual abuse, and (4) collect statistics regarding all allegations of sexual abuse from correctional facilities in accordance with the established standards of the NPREC.

### **Monitoring Agency Policies**

In FY 2013, the PREA ombudsman reviewed the TDCJ policies related to the prevention, reporting and investigation of sexual abuse in correctional facilities to ensure the duties and responsibilities of the PREA ombudsman are reflected within the policies. The PREA ombudsman is included in the TDCJ policy review process, which submits agency policies to administrators for review and comments before adoption. Being a part of the review process enables the PREA ombudsman to provide responses to policies that may impact the duties and responsibilities of the PREA ombudsman and assess the impact the proposed PREA standards may have on the current policies and procedures. In 2013, The PREA ombudsman monitored the compliance of the processing of allegations of sexual abuse with agency policies, and researched best practices in the areas of sexual abuse prevention, reporting, investigation and education. Most of the research involved reviewing best practices identified by the BJS and the NIC; attending conferences that provide the opportunity to network with correctional professionals involved with issues related to sexual abuse in prison, and sharing information with other correctional professionals across the United States. Best practices identified by the PREA ombudsman were shared with the director of the TDCJ – CID for consideration and possible implementation.

### **Oversight of Administrative Investigations**

In FY 2013, the PREA ombudsman monitored the administrative investigations of allegations of offender-on-offender sexual abuse. Allegations of sexual abuse are reported to EAC within three hours of the allegation being reported to facility staff. Once the EAC receives the incident report, the report is forwarded to the PREA Ombudsman Office for review. Upon completion of the investigation, the facility administrator completes an administrative review detailing information specific to the incident. In FY 2013, the PREA Ombudsman Office reviewed 742 administrative investigations pertaining to allegations of offender-on-offender sexual abuse.

### **Impartial Resolution of Complaints of Sexual Abuse**

The PREA ombudsman processes complaints and inquiries from offenders incarcerated in the TDCJ correctional facilities and the public concerning allegations of sexual abuse.

The PREA ombudsman reports directly to the chairman of the TBCJ, providing an external source where public inquiries can be processed and investigations conducted that are independent of the investigations conducted by TDCJ staff, ensuring an impartial resolution to those complaints. This process provides multiple avenues for oversight of allegations of sexual abuse to occur.

In FY 2013, the PREA Ombudsman Office received 1,041 public and offender inquiries. 477 were referred to various TDCJ departments for processing. The remaining 564 inquiries were processed by the PREA Ombudsman Office.

Anyone can report allegations of sexual abuse to the PREA ombudsman. However, due to the serious nature of sexual abuse, anyone knowledgeable of an offender-on-offender or staff-on-offender sexual abuse that occurs within a TDCJ correctional facility is encouraged to immediately report the allegation. Offenders incarcerated in the TDCJ are encouraged to immediately report allegations of sexual abuse to correctional staff on their current facility. However, offenders may report allegations of sexual abuse to the PREA Ombudsman Office, the OIG, the SPPMO, or the TDCJ - ombudsman coordinator. In addition, offenders may report allegations of sexual abuse through the grievance process. The TDCJ employees are required to immediately report allegations of sexual abuse to their supervisors.

Friends of offenders incarcerated in the TDCJ, family members and the general public are encouraged to report allegations of sexual abuse to the PREA Ombudsman Office. Public inquiries concerning allegations of sexual abuse received by the TBCJ and the TDCJ – ombudsman coordinator are referred to the PREA Ombudsman Office for investigation and response. Inquiries pertaining to allegations of sexual abuse received by the PREA ombudsman are reported immediately (same day received) to unit administration for investigation and appropriate administrative action. A thorough investigation is conducted and a comprehensive report is forwarded to the PREA Ombudsman Office. Depending on the results of the investigation, the PREA Ombudsman Office may elect to conduct a subsequent interview and investigation. In addition, all allegations of sexual abuse are referred to the OIG for criminal investigation.

## Collection of Statistical Data

In FY 2013, the PREA ombudsman assisted in the coordination of data requested by the BJS for the completion of the National Survey of Sexual Violence for 2012. In addition, the PREA ombudsman coordinated with the TDCJ Executive Services Department, the SPPMO and the OIG to monitor the collection of data associated with sexual abuse in prisons to ensure accuracy of data utilized in reports to agency administrators and responses to public requests concerning PREA related statistics. The procedures include monthly reconciliation of the number of offender-on-offender allegations of sexual abuse that are reported to EAC and the PREA ombudsman and identifying those allegations that meet the elements of the Texas Penal Code for Sexual Assault (Texas Penal Code 22.011) and Aggravated Sexual Assault (Texas Penal Code 22.021) as determined by the OIG.

Initially, all allegations of sexual abuse are reported to EAC and forwarded to the PREA Ombudsman Office as an alleged sexual abuse. However, upon reconciliation with OIG the incidents are divided into two categories for reporting purposes. Incidents that meet the Texas Penal Code 22.011 or 22.021, and after OIG opens a criminal case are categorized as *Nonconsensual Sexual Act*. However, incidents that do not meet the Texas Penal Codes 22.011 and 22.021, and OIG does not open a criminal case, are identified as *Abusive Sexual Contact*. These categories are consistent with BJS definitions and are used to assist in the compilation of data to complete the National Survey of Sexual Violence each year.

During FY 2013, there were 743 allegations of offender-on-offender alleged sexual abuse incidents reported to the PREA ombudsman by the TDCJ. Only 278 (37.5%) of those allegations were identified by OIG as meeting the elements of the Texas Penal Code for Sexual Assault or Aggravated Sexual Assault, and subsequently categorized as Nonconsensual Sexual Act. The remaining 465 allegations were categorized as the *Abusive Sexual Contact* of one offender by another. Regardless of the category, the TDCJ policy of “zero tolerance” on sexual abuse assures every allegation is thoroughly investigated and appropriate disciplinary actions taken should the allegations be substantiated.

All dispositions of investigations pertaining to a *Nonconsensual Sexual Act* or *Abusive Sexual Contact* are based on the preponderance of evidence collected during the investigation. The definitions of disposition outcomes are consistent with definitions utilized by the BJS. “Substantiated” means the event was investigated and determined to have occurred; “Unsubstantiated” means the evidence was insufficient to make the final determination if the incident occurred; “Unfounded” means the incident was determined not to have occurred and “Investigation Ongoing” means a final determination has not yet been made as to whether the incident occurred.

The disposition of the administrative investigations monitored by the PREA ombudsman and statistical information submitted by correctional facilities are provided in the following paragraphs and tables.

Offender-On-Offender Alleged Nonconsensual Sexual Act Statistics

The PREA ombudsman received 278 reports of alleged sexual abuse from TDCJ; however, one report was received from an intermediate sanction facility, which is not included in the statistics for this section. Consequently, the PREA ombudsman reviewed 277 administrative investigations identified as alleged nonconsensual sexual acts. There were 18 correctional facilities where five or more allegations were reported to have occurred. These facilities accounted for 27.7% of the allegations reported occurring in the TDCJ correctional facilities. There were 67 alleged nonconsensual sexual acts reported on a different facility than the incident allegedly occurred on. A total of 10 out of the 277 incidents reported occurred on a female facility. Of the cases reviewed, seven cases were substantiated, 30 cases were unfounded and 240 cases were unsubstantiated. The substantiated cases resulted in four cases where disciplinary penalties were administered; the unfounded cases resulted in 19 disciplinary penalties administered and 10 of the unsubstantiated cases resulted in disciplinary penalties being administered. There were 68 allegations that had no identified assailants; 196 allegations had one assailant and 13 allegations had multiple (two or more) assailants, resulting in a total of 505 participants. There were a total of 277 alleged victims and 228 alleged assailants reported.

The PREA Ombudsman monitors the number of convictions against assailants for the following disciplinary infractions: sexual misconduct, sexual fondling and sexual abuse. There were seven assailants who received disciplinary cases for “sexual misconduct”, and one assailant received a disciplinary case for “sexual abuse”. One assailant received a disciplinary case for “sexual fondling” in this category.

Victims and assailants of alleged nonconsensual sexual acts are interviewed by the Unit Classification Committee (UCC), who makes specific recommendations based on the disposition of administrative investigations. The following UCC dispositions are based on the findings of the alleged nonconsensual sexual act investigations conducted by the unit administration.

<b>UCC Disposition</b>	<b>Assailant</b>	<b>Victim</b>
No Changes (Allegations Unfounded or Unsubstantiated)	158	129
Issued a Housing Change	48	72
Received a Unit Transfer	3	54
Placed in Safekeeping or Protective Custody	0	4
Released by the TDCJ Prior to Hearing	3	0
Other UCC Action	16	18

One of the challenges to conducting an administrative investigation of an alleged nonconsensual sexual act is the delay in reporting the incident from the time it occurred to the time it was reported. Consequently, offenders are informed through various media the importance of reporting allegations of sexual abuse as soon as possible, especially within 96 hours (four days). However, only 118 of the 277 incidents (42.6%) were reported within four days; 66 were reported within five to 30 days; 24 were reported within 31 to 90 days, and 58 were reported after 90 days. Information obtained during the administrative investigation could not determine the approximate date of occurrence for the remaining 11 incidents.

Another element of the administrative investigation is to determine the location the alleged nonconsensual sexual act occurred. The following table indicates general locations where victims claimed the alleged incident occurred. The “Cellblock Housing Area” category includes general population cells and single-cell housing areas. The “Other” category depicts locations where two or less incidents were reported for a given location, or where no location information was provided.

<b>General Location</b>	<b>Occurrences</b>	<b>Percent</b>
Cellblock Housing Area	173	62.5%
Shower or Restroom Area	26	9.4%
Dormitory Housing Area	27	9.7%
Offender Dayroom	8	2.9%
Recreation Yard or Gym Area	8	2.9%
Other	35	12.7%

Specific offender demographic information pertaining to the reports of allegations of nonconsensual sexual acts was reviewed. Of the 277 incidents reported, 95 of the victims were Black; 67 of the victims were Hispanic, one victim was Other and 114 of the victims were White. Conversely, 138 of the assailants were Black; 53 of the assailants were Hispanic and 37 of the assailants were White. The average age of the victim was 35 and the average age of the assailant was 34. However, there were 22 incidents (7.9%) where the alleged assailant was ten years or older than the alleged victim. The average height of the victim was 5’ 8” and the average height of the assailant was 5’ 9”. There were 24 incidents (8.7%) where the alleged assailant was at least six inches taller than the alleged victim. The average weight of the alleged victim was 177 pounds and the average weight of the alleged assailant was 190 pounds. There were 40 incidents (14.4%) where the alleged assailant was at least 40 pounds heavier than the alleged victim.

Lastly, the PREA ombudsman monitored the prevalence of alleged nonconsensual sexual acts occurring on correctional facilities to determine those facilities that increased from the previous year. In FY 2013, there were 32 facilities that had an increase of reports of incidents occurring on the facility. While the majority of the 32 facilities experienced a minimal increase, there were four facilities that had five or more allegations reported than in FY 2012.

*Offender-On-Offender Abusive Sexual Contact Statistics*

The PREA ombudsman reviewed 465 administrative investigations that are deemed as abusive sexual contact. There were 32 correctional facilities where five or more allegations were reported to have occurred. These facilities accounted for 47% of the allegations reported occurring in TDCJ correctional facilities. There were 43 Abusive Sexual Contact cases that were reported on a different facility than the incident allegedly occurred on. 167 of the 465 incidents occurred on a female facility. Of the cases reviewed, 13 cases were substantiated, 90 cases were unfounded and 362 cases were unsubstantiated. The substantiated cases resulted in 12 cases where disciplinary penalties were administered.

The unfounded cases resulted in 54 disciplinary penalties administered and there were eight unsubstantiated cases resulting in disciplinary penalties being administered. Lastly, 61 of the allegations had no identified assailants; 375 allegations had one assailant and 29 allegations had multiple (two or more) assailants, resulting in a total of 916 participants. There were a total of 465 alleged victims and 451 alleged assailants reported.

The PREA ombudsman monitors the number of convictions against assailants for the following disciplinary infractions: sexual misconduct, sexual fondling and sexual abuse. One assailant received a disciplinary case for “sexual misconduct”; eleven assailants received disciplinary cases for “sexual fondling” and there were no assailants that received a disciplinary case for “sexual abuse”.

Victims and assailants of alleged abusive sexual contact were interviewed by the UCC, which made specific recommendations based on the disposition of the administrative investigations. The following dispositions were based on the findings of the investigations conducted by the unit administration.

<b>UCC DISPOSITION</b>	<b>Assailant</b>	<b>Victim</b>
No Changes (Allegations Unfounded or Unsubstantiated)	358	261
Issued a Housing Change	65	111
Received a Unit Transfer	6	29
Placed in Safekeeping	0	4
Released by the TDCJ Prior to Hearing	2	2
Other UCC Action	20	58

Offenders are informed through various media the necessity for reporting allegations as soon as possible, especially within 96 hours (four days). However, only 273 of the 465 incidents (58.7 %) were reported within four days; 105 were reported within five to 30 days; 26 were reported within 31 to 90 days; and 39 were reported after 90 days. Information obtained during the administrative investigation could not determine the exact date of occurrence of the remaining 22 incidents.

The following table indicates those general locations where victims claimed the alleged abusive sexual contact occurred. The “Cellblock Housing Area” category includes general population cells and single-cell housing areas. The “Other” category identifies those locations where four or less incidents were reported for a given location or where no location information was provided.

<b>General Location</b>	<b>Occurrences</b>	<b>Percent</b>
Cellblock Housing Area	167	35.9%
Dormitory Housing Area	67	14.4%
Offender Dayroom	41	8.8%
Hallway or Walkway	31	8.7%
Shower or Restroom Area	45	9.7%
Dining Hall or Kitchen	17	3.7%
Recreation Yard or Gym	27	5.8%
Other	101	21.7%

Specific offender demographic information pertaining to the reports of allegations of abusive sexual contact was reviewed. Of the 465 incidents reported, 156 of the victims were Black; 123 of the victims were Hispanic; four were Other and 182 of the victims were White. Conversely, 245 of the assailants were Black; 115 of the assailants were Hispanic and 91 of the assailants were White. The average age of the victim was 34 and the average age of the assailant was 35. However, there were 78 incidents (16.8%) where the alleged assailant was ten years or older than the alleged victim. The average height of the victim and the assailant was 5' 7". There were 28 incidents (6.0%) where the alleged assailant was at least six inches taller than the alleged victim. The average weight of the alleged victim was 175 pounds and the average weight of the alleged assailant was 180 pounds. There were 81 incidents (17.4%) where the alleged assailant was at least 40 pounds heavier than the alleged victim.

The PREA ombudsman monitored the prevalence of alleged abusive sexual contact occurring on correctional facilities to determine those facilities that increased from the previous year. In FY 2013, there were 48 facilities that had an increase of reports of abusive sexual contact occurring on the facility. While the majority of the 48 facilities experienced a minimal increase, there were nine facilities that had five or more allegations reported than in FY 2012.

## **OFFICE OF INSPECTOR GENERAL**

The Office of the Inspector General (OIG), in conjunction with the Correctional Institutions Division (CID), Health Services Division and the Special Prosecution Unit, is committed to creating a safer environment for the TDCJ employees and offenders.

As such, the OIG will:

- Assist sexual assault victims in a supportive manner, conduct timely and thorough investigations with the goal of successfully prosecuting sexual predators.
- Ensure that all investigators comply with the training mandates set forth by the Texas Commission on Law Enforcement Education (TCOLE).
- Meet with Health Services Division and/or medical administrative staff, as appropriate, to ensure timely and appropriate medical examinations continue to be provided to sexual assault victims and to ensure proper procedures for obtaining and preserving evidence are followed.
- Meet with prosecutorial entities, as appropriate, to ensure the prosecutors are receiving comprehensive investigative reports and to provide any assistance needed for timely adjudication of sexual assault investigations.
- Maintain open lines of communication with CID administrators and staff to ensure the timely reporting of sexual assault allegations to OIG investigators; timely medical assistance to the victims; and the preservation of evidence.

### **Sexual Assault Investigative Process:**

The following delineates the sexual assault investigative process:

1. An offender makes an outcry directly to a correctional staff member; contacts the OIG directly, or a third party or anonymous person makes a notification.
2. Upon notification, the OIG investigator will ensure that the victim offender is immediately offered a medical examination and, if appropriate, a sexual assault examination is performed. The OIG investigator will collect and preserve any physical or biological evidence recovered from the crime scene and/or sexual assault collection kit and submit for analysis as appropriate. The offender victim may request the presence of a representative, during the forensic medical examination.
3. During the initial victim offender interview, the investigator will obtain the date, time, place, circumstances, and suspect's information relating to the sexual assault incident.
4. The OIG investigator will provide the suspect's information to security personnel to ensure the victim is isolated from the suspect.

5. If the crime scene is still active, the investigator will conduct a thorough investigation of the scene and recover any physical and/or biological evidence.
6. During the course of the investigation, witnesses, potential witnesses and possible suspects are identified, interviewed, and written statements are obtained.
7. Should DNA evidence identify a suspect, the investigator will obtain a search warrant to collect comparison DNA sample from the suspect. The comparison DNA sample is sent to the Texas Department of Public Safety (DPS) crime laboratory for analysis.
8. Completed investigations are reviewed by OIG supervisors to ensure they are accurate, complete and thorough. Completed investigations containing sufficient physical or biological evidence and/or statements that support the penal statute are presented to the Special Prosecution Unit or District Attorney's Office of jurisdiction for criminal charges. It is the prosecutor's discretion whether the case is accepted or declined for prosecution or referred to the grand jury for indictment.

#### **Sexual Assault Case Tracking:**

Starting on September 1, 2001, the OIG has maintained a database of all TDCJ related sexual assault investigations. This database is able to formulate statistical information, which notifies OIG officials of previously entered subjects, witnesses or victims; thereby, quickly identifying and tracking potential victims, sexual predators and offenders who may use allegations of sexual assault to manipulate the prison system. The OIG shares this information with the appropriate TDCJ officials. Additionally, the database tracks violations of Improper Sexual Activity with a Person in Custody.

#### **Status of Sexual Assault Investigations:**

During FY 2013, the OIG documented 383 alleged sexual assault incidents that met one of the state of Texas Penal Code definitions listed below.

- ◆ Sexual assault allegations (Texas Penal Code 22.011)
- ◆ Attempted sexual assault allegations (Texas Penal Code 22.011A)
- ◆ Aggravated sexual assault allegations (Texas Penal Code 22.021)
- ◆ Attempted aggravated sexual assault allegations (Texas Penal Code 22.021A)

#### **Improper Sexual Activity with Persons in Custody:**

Additionally, during FY 2013, the OIG recorded 45 alleged incidents of Improper Sexual Activity with Persons in Custody, state of Texas Penal Code 39.04.

### **Reporting Delays:**

During FY 2013, 54 offenders made delayed sexual assault outcries greater than 365 days with the greatest being 4,258 days. Excluding the aforementioned 54 incidents, the average time for an offender to report a sexual assault was approximately 30 days.

### **Investigative Dispositions:**

The following appendices provide status information and incident location on OIG sexual assault and improper sexual activity with persons in custody investigations. “Active” investigations are still actively under investigation. “Inactivated” investigations are temporarily halted awaiting laboratory analysis of evidence or other impediments that cause the temporary investigative cessation. “Unfounded” means the investigation proved that the alleged incident did not occur or the alleged incident is physically impossible to have occurred.

## **Safe Prisons Program**

### **Appendices**

## Reconciliation of Alleged Sexual Abuse Statistics

This report provides a comprehensive review of the prevalence of alleged sexual abuse reported to the TDCJ. In doing so, several departments<sup>1</sup> have coordinated their efforts to ensure an accurate reconciliation of the incidents reported occurs. This is significant given this report encompasses the documentation of administrative investigations and criminal investigations simultaneously. Both of these investigative processes have unique characteristics, which require a systematic review to provide a thorough reconciliation of the data. The following paragraphs summarize the prevalence of the allegations of sexual abuse documented in this report, and the correlation between the administrative investigations and criminal investigations.

The TDCJ policy requires all offender-on-offender alleged sexual abuse reported on correctional facilities be reported to the TDCJ-EAC, who forwards the reports to the OIG, PREA ombudsman and the Safe Prisons Program Management Office. An administrative investigation is completed on all allegations, regardless of the ability to substantiate the initial complaint. In addition, an OIG investigator will conduct a criminal investigation to determine if the incident meets the elements of a felony penal code violation.

During FY 2013, there were 743 allegations of offender-on-offender alleged sexual abuse reported to EAC. Only 278 of those allegations were identified by the OIG as meeting the elements of the Texas Penal Code 22.011 (Sexual Assault) and 22.021 (Aggravated Sexual Assault). The remaining 465 allegations did not meet the elements of a felony penal code violation and were categorized as the *abusive sexual contact* of one offender by another.<sup>2</sup>

In FY 2013, there were a total of 383 criminal cases opened by the OIG pertaining to allegations of sexual assault, attempted sexual assault, aggravated sexual assault or attempted aggravated sexual assault<sup>3</sup>, which include the elements under Texas Penal Code sections 22.011, 22.011(A), 22.01 and 22.021(A), respectively.

Of the 383 cases opened involving alleged violations of Texas Penal Code Chapter 22, there were 378 criminal cases specific to sexual assault (Penal Code 22.011 and 22.021).

Of the 378 cases specific to sexual assault, 334 of the cases were identified as an offender-on-offender sexual assault; the remaining 44 cases included employee-on-offender sexual assaults.

Of the 334 cases identified as an offender-on-offender sexual assault 21 cases were received by the OIG from external sources and were not processed through EAC, and 29 were multiple cases opened on single incidents. There were six cases that were reported to EAC in the FY 2012; however, a case was not opened by OIG until FY 2013. The remaining 278 cases were processed through EAC and forwarded to the OIG for review, as noted above.

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<sup>1</sup> Offices involved in reconciling allegations of sexual assault for this report include the Office of Inspector General; TDCJ Executive Services; TDCJ Safe Prisons Program Management Office, and the PREA ombudsman.

<sup>2</sup> Statistics on administrative investigations are included in the PREA ombudsman section of this report.

<sup>3</sup> These totals are depicted in the appendices *Reported Sexual Assault Violations by Penal Code Section*.

In FY 2013, there were 45 criminal cases opened by the OIG pertaining to allegations of improper sexual activity with persons in custody (Penal Code 39.04).

Reported Sexual Assault Violations by Penal Code Section

Sexual Assault Case Counts by Current Status

Sexual Assault Case Counts by Location

**Texas Department of Criminal Justice  
OFFICE OF THE INSPECTOR GENERAL**

**Reported Sexual Assault Violations  
By Penal Code Section**

**Date Range:  
September 1, 2012 – August 31, 2013**

Sexual Assault	22.011	286
Attempted Sexual Assault	22.011(A)	4
Aggravated Sexual Assault	22.021	92
Attempted Aggravated Sexual Assault	22.021(A)	1
<b>Total Number of Cases Reported:</b>		<b>383</b>

Allegations reported under Penal Code Sections 22.011, 22.011(A) and 22.021 include allegations of offender-on-offender and staff-on-offender sexual assaults. In FY 2013 there were 378 allegations of sexual assaults (Penal Codes 22.011 and 22.021) accepted by the OIG as meeting the elements of the Penal Code. Of the 378 cases, 278 of those reports were processed through EAC and forwarded to the PREA ombudsman for review; 29 were multiple cases opened on single incidents; 44 were employee-on-offender allegations; 21 incidents were accepted by the OIG without an EAC number and six incidents were reported to EAC in a prior fiscal year.

**Improper Sexual Activity with Person in Custody**

**Date Range:  
September 1, 2012 – August 31, 2013**

Improper Sexual Activity with Person in Custody	39.04	<b>45</b>

Allegations reported under Penal Code Section 39.04 involve allegations of staff members engaging in sexual contact, sexual intercourse or deviate sexual intercourse with an offender.

**Texas Department of Criminal Justice  
OFFICE OF THE INSPECTOR GENERAL**

**FY 2009 – 2013  
Reported Sexual Assault Violations  
By Penal Code Section**

Violations	Penal Code	Fiscal Year				
		2009	2010	2011	2012	2013
Sexual Assault	22.011	179	254	376	287	286
Attempted Sexual Assault	22.011(A)	4	9	3	2	4
Aggravated Sexual Assault	22.021	27	23	80	87	92
Attempted Aggravated Sexual Assault	22.021(A)	1	0	3	1	1
<b>Total Number of Cases Reported:</b>		<b>211</b>	<b>286</b>	<b>462</b>	<b>377</b>	<b>383</b>

Statistical information provided for FY 2009 - FY 2013 depicts the incidents of alleged sexual assaults in the year they were reported. Until April 2010, allegations include those determined to have met the elements of the Penal Code definition of sexual assault subsequent to the Office of Inspector General interviewing the offender. Effective April 2010 allegations determined to have met the elements of the Penal Code based solely upon the initial written report are included.

**Improper Sexual Activity with Person in Custody**

Violations	Penal Code	Fiscal Year				
		2009	2010	2011	2012	2013
Improper Sexual Activity with Person in Custody	39.04	<b>53</b>	<b>44</b>	<b>66</b>	<b>57</b>	<b>45</b>

Statistical information provided for FY 2009 - FY 2013 depicts the incidents of improper sexual activity with person in custody in the year they were reported.

**Texas Department of Criminal Justice  
OFFICE OF THE INSPECTOR GENERAL**

**Sexual Assault Case Counts by Current Status  
Penal Codes 22.011 and 22.021**

**Date Range:  
September 1, 2012 – August 31, 2013**

<b>Disposition</b>	<b>Number of Cases</b>
Active (under investigation)	202
No Charge	174
Presented for Prosecution	1
Voided	1

**Texas Department of Criminal Justice  
OFFICE OF THE INSPECTOR GENERAL**

**Sexual Assault Case Counts by Current Status  
Penal Codes 22.011(A) and 22.021(A)**

**Date Range:  
September 1, 2012 – August 31, 2013**

<b>Disposition</b>	<b>Number of Cases</b>
Active (under investigation)	2
No Billed	1
No Charge	1
Prosecution Declined	1

**Texas Department of Criminal Justice  
OFFICE OF THE INSPECTOR GENERAL**

**Sexual Assault Case Counts by Current Status  
Penal Code 39.04**

**Date Range:  
September 1, 2012 – August 31, 2013**

<b>Disposition</b>	<b>Number of Cases</b>
Active (under investigation)	22
No Charge	14
Prosecution Accepted (Pending Grand Jury)	7
Sentenced	2

**Texas Department of Criminal Justice  
OFFICE OF THE INSPECTOR GENERAL**

**Sexual Assault Case Counts by Incident Location  
Penal Codes 22.011 and 22.021**

**Date Range:  
September 1, 2012 – August 31, 2013**

Facility	County	Cases Reported
Allred	Wichita	18
Bartlett	Williamson	2
Beto	Anderson	5
Boyd	Freestone	1
Bradshaw	Rusk	1
Byrd	Walker	4
Carole S. Young	Galveston	2
Clemens	Brazoria	6
Clements	Potter	24
Coffield	Anderson	7
Cole	Fannin	2
Connally	Karnes	20
Crain	Coryell	8
Daniel	Scurry	4
Darrington	Brazoria	3
Dawson	Dallas	3
Dominguez	Bexar	1
East Texas Treatment Facility	Rusk	2
Eastham	Houston	8
Ellis	Walker	3
Estelle	Walker	3
Ferguson	Madison	5
Formby	Hale	1
Garza East	Bee	1
Garza West	Bee	6
Gist	Jefferson	1

Facility	County	Cases Reported
Goree	Walker	2
Gurney	Anderson	2
Hightower	Liberty	2
Hobby	Falls	10
Hodge	Cherokee	15
Holliday	Walker	1
Hughes	Coryell	14
Huntsville	Walker	1
Jester IV (Psych)	Fort Bend	13
Jordan	Gray	1
Lewis	Tyler	13
Lindsey	Jack	1
Luther	Grimes	1
Lychner	Harris	4
Lynaugh	Pecos	4
McConnell	Bee	8
Michael	Anderson	15
Mineral Wells PPT	Parker	1
Montford	Lubbock	7
Mountain View	Coryell	14
Murray	Coryell	6
Neal	Potter	4
Pack	Grimes	1
Plane	Liberty	1
Polunsky	Polk	3
Powledge	Anderson	1
Ramsey	Brazoria	5
Robertson	Jones	18
Sanders Estes	Johnson	1
Scott	Brazoria	4
Skyview	Cherokee	5
Smith	Dawson	5
South Texas Transitional Center	Harris	2
Stiles	Jefferson	28

Facility	County	Cases Reported
Stringfellow	Brazoria	1
Telford	Bowie	16
Terrell	Brazoria	2
Wallace	Mitchell	1
Ware	Mitchell	1
Willacy County	Willacy	1
Woodman	Coryell	1
Wynne	Walker	1
Total Number of Cases Reported		378

**Texas Department of Criminal Justice  
OFFICE OF THE INSPECTOR GENERAL**

**Sexual Assault Case Counts by Incident Location  
Penal Codes 22.011(A) and 22.021(A)**

**Date Range:  
September 1, 2012 – August 31, 2013**

Facility	County	Cases Reported
Allred	Wichita	1
Coffield	Anderson	1
Ellis	Walker	1
Hodge	Cherokee	1
Ramsey	Brazoria	1
Total Number of Cases Reported		5

**Texas Department of Criminal Justice  
OFFICE OF THE INSPECTOR GENERAL**

**Sexual Assault Case Counts by Incident Location  
Penal Code 39.04**

**Date Range:  
September 1, 2012 – August 31, 2013**

Facility	County	Cases Reported
Allred	Wichita	2
Bartlett	Williamson	1
Beaumont Center Halfway House	Jefferson	1
Beto	Anderson	1
Clemens	Brazoria	1
Clements	Potter	3
Coffield	Anderson	1
Cole	Fannin	1
Crain	Coryell	10
Daniel	Scurry	2
Darrington	Brazoria	1
Dawson	Dallas	2
Hightower	Liberty	2
Hughes	Coryell	1
Jordan	Gray	2
Lindsey	Jack	1
Lockhart Work Facility	Caldwell	1
McConnell	Bee	2
Plane	Liberty	1
Polunsky	Polk	1
Skyview	Cherokee	1
South Texas Transitional Center/Reid Facility	Harris	1
Stiles	Jefferson	3
Telford	Bowie	2
Wilderness Camp 6 (Beeville)	Bee	1
<b>Total Number of Cases Reported</b>		<b>45</b>