



TEXAS DEPARTMENT  
OF  
CRIMINAL JUSTICE

**NUMBER:** BP-01.08  
**DATE:** June 25, 2021  
**PAGE:** 1 of 6  
**SUPERSEDES:** None

## BOARD POLICY

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**SUBJECT:** INDEPENDENT OMBUDSMAN POLICY STATEMENT

**AUTHORITY:** Tex. Gov't Code §§ 404.094, 492.001, 492.013, 493.001, 493.006(b), 493.016; 37 Tex. Admin. Code § 151.4; *General Appropriations Act*, BP-02.08, "Statement of Internal Controls"

**APPLICABILITY:** Texas Board of Criminal Justice (TBCJ) and Texas Department of Criminal Justice (TDCJ)

**POLICY:**

It is the policy of the TBCJ that the independent ombudsman ensures effective communication with TBCJ and TDCJ executive management. In accordance with Texas Government Code § 493.016, the Office of the Independent Ombudsman (OIO) receives, reviews, investigates, and responds to complaints or inquiries from members of the public, elected or appointed state officials, or inmates about non-criminal matters regarding the TBCJ and the TDCJ. The OIO reports directly and only to the TBCJ.

**DEFINITIONS:**

The following terms are defined for the purpose of this policy and are not intended to be applicable to other policies or procedures.

"Complaint" is a written expression of dissatisfaction or concern regarding a non-criminal matter within the jurisdiction of the TBCJ.

"Elected or Appointed State Official" is any person who currently holds a state office by virtue of election or appointment, including a member of the official's staff.

"Independent Ombudsman" is the official appointed by the TBCJ to receive, review, investigate, and respond to complaints and inquiries from the public, elected, or appointed state officials, the TBCJ or TDCJ leadership.

"Inquiry" is a written or verbal communication from a member of the public or an elected or appointed state official requesting information regarding the TBCJ or the TDCJ.

“Member of the Public” is any living person, except: a TBCJ member or employee acting in their official capacity; TDCJ employees acting in their official capacities; inmates incarcerated by or for the TDCJ; or an elected or appointed state official, including a member of the official’s staff.

“Response” is a verbal or written communication, including a letter, email, or phone call, that: (a) acknowledges receipt of a complaint or inquiry; (b) provides preliminary information, if available; and (c) either indicates actions are being taken, or provides information about the outcome of actions taken by the TDCJ.

## **PROCEDURES:**

### I. Mission and Philosophy

- A. The OIO shall serve as an independent office reporting to the TBCJ to review, investigate, resolve, and respond to complaints and inquiries received by the OIO in accordance with the policies of the TDCJ and TBCJ and the laws of the state of Texas.
- B. The OIO shall provide leadership, communication, and commitment to support the highest level of professionalism for the TBCJ, the TDCJ, and the citizens of Texas with integrity, fairness, and timeliness.

### II. Responsibility

The OIO is responsible for:

- A. Developing and maintaining a policies and procedures manual, which shall serve as standard operating procedures for the OIO and include policies and procedures for conducting investigations, criteria for opening and closing investigations, and the scope and method of investigation;
- B. Overseeing the development, implementation, and evaluation of the independent ombudsman program and all related goals, objectives, operational policies and procedures, and TBCJ and legislative reporting requirements;
- C. Overseeing the operational, training, and equipment requirements and developing justifications to address these needs within available resources for the OIO;
- D. Cooperating with all divisions of the TDCJ as necessary to ensure complaints and inquiries received by the OIO are processed thoroughly, accurately, and timely;
- E. Responding to complaints and inquiries received from a member of the public regarding:
  - 1. Non-criminal matters regarding the TBCJ and TDCJ;

2. General questions about TDCJ or TBCJ matters, which shall be referred to the appropriate TDCJ division;
  3. Policy-related questions regarding individual inmates, which shall be referred to the appropriate TDCJ division; and
  4. General information regarding privately operated facilities, which shall be referred to the appropriate TDCJ division.
- F. Responding to complaints or inquiries received from an elected or appointed state official:
1. A complaint or inquiry from an elected or appointed state official requesting a direct response to a constituent shall be considered general correspondence;
  2. When responding to a complaint or inquiry from an elected or appointed state official, the OIO shall communicate and coordinate with the TDCJ chief of staff and Governmental Affairs.
- G. Responding to complaints or inquiries received from an inmate in TDCJ custody after they have exhausted administrative remedies through the established grievance process;
- H. Assessing the adequacy of the OIO's staffing on an annual basis to ensure compliance with deadlines and performance measure targets;
- I. Preparing monthly and quarterly activity reports for the TBCJ and other reports, including legislative reports, as required by law;
- J. Identifying, reporting, and making recommendations to the TBCJ to resolve any problematic, systemic trends or other matters requiring the attention of the TBCJ and executive leadership of the TDCJ;
- K. Engaging in prevention activities, including: review of legislation; review of rules, regulations, policies, and procedures; training; and education;
- L. Attending any meetings held by the TBCJ to specifically address complaints and inquiries received by the OIO, unless the Office of the General Counsel (OGC) determines the meeting is closed under state law or the content of the meeting is protected by the attorney-client privilege. If the OGC makes such a determination, the OGC shall consult with the TBCJ chairman before taking any final action; and
- M. Providing testimony to the Texas State Legislature.

### III. Authority

The OIO is authorized to:

- A. Access TDCJ records, information, data, reports, plans, projects, matters, contracts, memoranda, correspondence, and any other materials, including electronic data of the TDCJ;
- B. Propose changes to TDCJ policies and procedures through the TBCJ chairman.
- C. Monitor and ensure TDCJ compliance with relevant statutes, rules, and policies regarding the treatment of inmates under the jurisdiction of the TDCJ.

### IV. The Independent Ombudsman

- A. The independent ombudsman shall be recommended by a TBCJ committee and appointed by the TBCJ. The independent ombudsman shall not be terminated or disciplined without approval of the TBCJ.
- B. The independent ombudsman shall report all pertinent matters directly to the TBCJ chairman.
- C. The TBCJ chairman may appoint a person to serve on an interim basis as the independent ombudsman upon the independent ombudsman's death, resignation, termination, or inability to fulfill his or her responsibilities. This person shall serve until the next regularly scheduled meeting of the TBCJ, at which time the TBCJ shall approve the continuation of the interim appointment, appoint another person to serve on an interim basis, or appoint a permanent independent ombudsman.
- D. The independent ombudsman may, upon notification to the TBCJ chairman, delegate responsibilities to a person to serve in the independent ombudsman's capacity when out of state, on leave, or otherwise unable to serve for a short period of time in accordance with BP-01.01, "Texas Board of Criminal Justice Responsibilities."

### V. Office of the Independent Ombudsman Employees

- A. OIO employees shall be justified in accordance with applicable TDCJ policies and shall be hired, appointed, disciplined, or terminated by the independent ombudsman or designee in accordance with TDCJ employment policies.
- B. The independent ombudsman shall advise the TBCJ chairman of all major disciplinary actions involving OIO employees.
- C. OIO employees may appeal employment actions to the independent ombudsman in accordance with PD-30, "Employee Grievance Procedures."

- D. The independent ombudsman shall be the final authority for grievances and review of any OIO employment decisions.

## VI. Operations

### A. Budget

1. The independent ombudsman, after consultation with the TBCJ chairman and the TDCJ executive director, shall develop a budget with the TDCJ chief financial officer (CFO) to be submitted to the TBCJ for approval as part of the TDCJ annual budget submission.
2. The independent ombudsman shall manage all budgeted funds authorized by the TBCJ or received by the OIO as authorized by law.
3. The expenditure of funds shall be subject to TDCJ procedures and directives provided by the CFO to ensure that expenditures are consistent with all provisions of the *General Appropriations Act* and state law.
4. Changes to the OIO budget, as approved by the TBCJ, shall require prior coordination between the TBCJ chairman and the independent ombudsman.

### B. Review and Resolution of Complaints and Inquiries

1. The OIO shall review complaints and inquiries received by the OIO as deemed appropriate by the independent ombudsman, as requested by a member of the TBCJ or TDCJ executive director, or as required by OIO and TBCJ policy. The independent ombudsman shall gather information and respond to complaints and inquiries.
2. OIO reviews shall be conducted according to OIO policy and procedures in a professional, thorough, timely, and unbiased manner.
3. The OIO shall provide specific information concerning investigations to the TBCJ upon request, unless prohibited by law.
4. The independent ombudsman shall advise the TBCJ chairman when an investigation provides evidence that tends to establish that an employee or group of employees has engaged in conduct that brings into question their continued fitness for duty. The independent ombudsman shall notify TDCJ executive management simultaneously with such advisement of the TBCJ chairman, and the TBCJ chairman shall inform the TBCJ.

5. The independent ombudsman shall immediately report or refer all allegations of criminal acts or conduct to the TDCJ Office of the Inspector General for investigation.
6. The independent ombudsman shall immediately refer allegations of sexual abuse and sexual harassment to the PREA ombudsman for investigation.
7. To preserve the integrity of the grievance process and to avoid duplicative and possibly conflicting attempts at resolution, all administrative remedies available to an inmate, including grievance procedures, shall be exhausted before the OIO reviews a complaint.
8. It should be understood that the OIO will not be able to review every issue sent to the office due to limited resources. In instances where a review is not feasible, notification to the complainant shall be made stating the reason(s) for the inability to review.

#### VII. Public Information Requests

The OIO and OGC shall coordinate the processing of all public information requests for information held by the OIO pursuant to a memorandum of understanding executed between the OIO and the TDCJ and approved by the TBCJ chairman.

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Patrick L. O'Daniel, Chairman\*  
Texas Board of Criminal Justice

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\* Signature on file