

# **TEXAS DEPARTMENT OF CRIMINAL JUSTICE**

## **Safe Prisons Program Fiscal Year 2012**



**Prepared By**

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PREA Ombudsman  
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**March 2013**

# 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 assaults, 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 assault, extortion and offender physical assault.**

The education of correctional officers and staff on the importance of preventing sexual assaults, 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 assault 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 assault, provide direction regarding various methods to report allegations and emphasize the agency's "Zero-Tolerance" policy on sexual assaults 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 assaults.

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 assault 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 assault in prison.

The table below provides Fiscal Year (FY) 2012 statistics related to CTSD instructional training programs containing Safe Prisons Program curriculum.

**FY 2012 CTSD Training Statistics**

<b>CTSD Training Programs with Safe Prisons Program Curriculum</b>	<b>FY 2012</b>	
	<b>Total Classes Conducted</b>	<b>Total Participants Completing</b>
<b>Pre-Service Training</b>	137	4,653
<b>In-Service Training</b>		
Non-Supervisor	1,101	24,184
Supervisor	319	5,254
<b>Leadership Development Training</b>		
Sergeant, Food Service, and Laundry Manager Training Academy	12	812
Sergeant, Food Service, and Laundry Manager Retreat Training	8	297
Lieutenant Command School	4	97
Correctional Administrator Preparedness Training	4	67
<b>Advanced Management Training for Majors</b>	3	135
<b>Assistant Warden Annual Training</b>	3	124
<b>Ancillary Training Program</b>		
Staff Survivor	152	1,360
Correctional Awareness	24	342

The TDCJ completed the production of the video “Safe Prisons in Texas” in FY 2008, which re-enforces the agency’s “Zero Tolerance Policy” against sexual assaults and illustrates the agency’s support of the Safe Prisons Program initiatives. The CTSD added the video to the training curriculum in FY 2009. In FY 2012, the CTSD presented the

video to 35,793 staff through pre-service, in-service, correctional awareness, and staff survivor classes.

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 assault and extortion prevention; investigative report writing; interviewing techniques, data collection and Mainframe applications related to tracking victim and predators.

The SPPMO developed a sexual assault/abuse pocket card for distribution to correctional staff in FY 2010. The pocket card documents the agency's "Zero Tolerance Policy" on sexual assaults; steps to take if a sexual assault 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 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 assaulted, and make violators subject to criminal charges, civil liability and disciplinary action. The first revision of the Safe Prisons Plan was completed in September 2005. In February 2012, the Safe Prisons Program completed its second revision of the plan. 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 assault, 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.

**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 assault 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. The number of requests for protective custody/safekeeping/transfers;
2. The number of offenders placed in protective custody/safekeeping/transfers;
3. The number of offenders denied protective custody/safekeeping/transfers;
4. The number of requests that include allegations of extortion, sexual assault and violence; and
5. The number of 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 September 1, 2012, there were 7,609 surveillance cameras on units across the state. Of these, 4,067 are in housing areas (dormitory and cell block areas). In FY 2012, the TDCJ installed comprehensive video surveillance systems at the Darrington, Polunsky and Stiles units. Currently, the TDCJ has three projects in progress to install comprehensive surveillance systems at the Coffield, Connally and McConnell units. Following completion of existing projects the total number of cameras on facilities will increase to 9,738. 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 Assault 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 assault 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. A total of 44 new Offender Victim Representatives were trained in FY 2012.
- ◆ 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 4,653 new cadets and 24,184 veteran correctional officers during pre-service and in-service academies in FY 2012. In addition, 5,254 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 assaults.**

Organizationally, the Director of the Correctional Institutions Division (CID) serves as the Safe Prisons Program coordinator. The SPPMO conducts statistical analysis of alleged sexual assaults; 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 assaults and other serious/unusual incidents are reported to the Emergency Action Center (EAC). Initially, all incidents of alleged sexual assaults 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 assaults reported through EAC require 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 Management.

Allegations of sexual assault are investigated by the OIG. 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 or the local district attorney for possible prosecution.

The Deputy Director, of Prison and Jail Management and the Deputy Director, of Management Operations, review all administrative review reports regarding sexual assaults within the TDCJ facilities. In addition, the PREA Ombudsman reviews the administrative reviews associated with allegations of sexual assaults.

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**

- ◆ Subsequent to the creation of the SPPMO, the CID Director formed the Safe Prisons Program Council. This body was created to provide guidance to the SPPMO and to executive administrative staff on the issue of prison sexual assault. 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 assaults 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 assault 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.

In FY 2010, the Mainframe application was expanded to include tracking of extortion predators and victims.

- ◆ The SPPMO conducts analysis of all alleged sexual assaults, including alleged sexual assaults which may or may not meet the elements of the penal code definition as determined by the OIG. This analysis identifies trends related to time of day allegations are more likely to be made, physical location, and custody classes with a higher rate of alleged sexual assault 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.

Parole staff are trained to recognize that an offender may not report a sexual assault that occurred in prison until after release. A process has been established for reporting these allegations in order to initiate the necessary investigations and track alleged predators.

#### **X. Protecting Inmates and Safeguarding Communities (PISC) Grant initiatives**

Since October 1, 2004, the TDCJ has received two one million dollar grant awards from the Office of Justice Programs to enhance the Safe Prisons Program through additional measures aimed at heightened awareness, prevention, detection, investigation and prosecution of sexual assaults. The second of these two awards expired on May 31, 2008.

As a part of the federal grant program, the TDCJ-CID met the dollar amount awards with a matching “in-kind” amount. These “in-kind” dollars are directed toward facility based operations of the Safe Prisons Program. Twenty five of the largest facilities, intake facilities and facilities housing more aggressive or vulnerable offenders have a designated USPPC. The USPPC is a multitasked position identified by the TDCJ to perform facility based initiatives identified through the SPPMO and the Safe Prisons Program Council. The USPPC is responsible for monitoring the Safe Prisons Program at the facility level and works directly for the facility administrator responsible for the safety and security of the unit. The USPPC is a collateral duty function on the remaining TDCJ facilities.

The PISC grants assisted the agency in implementing the following initiatives, which remain in effect:

- 1) *To reduce the number of in-cell offender-on-offender sexual assaults in high-risk areas by increasing the visibility into the cells and also by adding additional video surveillance equipment.*

The TDCJ manufactured and installed Lexan© Cell-Fronts in selected areas in order to enhance the ability of the central security officer to visually supervise offenders. The

security officer has unlimited visual supervision of the cell fronts contained in each 24-cell section; however, the doors are currently constructed from a solid piece of steel with a small viewing window. This design limits the officer's view of activities in the cell and increases the opportunities for in-cell sexual assaults. By modifying the cell front with the Lexan© that is reinforced by bars or expanded metal, the security officer is afforded increased visual surveillance of the offenders inside the cell. This enhancement allows staff the increased ability to detect assaults or suicide attempts and respond accordingly. TDCJ officials also plan to utilize data obtained from reported incidents to determine the most appropriate location to place additional digital video surveillance equipment. The combination of the Lexan© doors and more video surveillance equipment is expected to contribute to the prevention, detection and investigation of incidences of sexual assault.

Lexan© cell-fronts were fitted on 216 cells and installed on ten of the Michael prototype facilities during FY 2006. The TDCJ purchased 270 video surveillance cameras as a result of the PISC grant. A total of 135 video surveillance cameras were installed on five of the Michael prototype facilities in FY 2006 with an additional 135 video surveillance cameras installed on the remaining five Michael prototype facilities during FY 2007.

*2) To enhance sexual assault awareness for medical personnel and to improve medical examination services provided to offender sexual assault victims.*

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 2012, the Sexual Assault Examination Coordinator conducted 16 In-Service sessions on conducting medical examinations with 121 health professionals attending.

*3) To increase the knowledge level of the Special Prosecutors Unit (SPU) through special training on the management of sexual assault cases.*

There are many complex issues facing prosecutors charged with the responsibility of handling prison sexual assault cases. With heightened awareness of PREA 2003, additional professional organizations are addressing the issue through specialized training and public forums.

*4) To provide resources to enhance the investigation process performed by OIG staff.*

The TDCJ policy requires correctional staff to notify the OIG staff immediately following an alleged sexual assault report. Upon notification of an alleged sexual assault, 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 assault 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 assaults. 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 assault 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.

In FY 2008, the OIG completed the implementation of a Case Management System to assist in tracking and providing statistical information needed for sexual assault cases. In addition, the OIG provided training to OIG investigators so they could obtain certification as a Sexual Assault/Family Violence investigator.

*5) To increase offender knowledge of sexual assault prevention.*

The TDCJ collaborated with several community-based organizations to pilot 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 initiated 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 curriculum entitled "Sexual Assault Awareness" was completed by the grant funded contractor in FY 2006, with approximately 250 offender peer educators from 35 prison facilities participating in the initial training.

The Sexual Assault Awareness Curriculum - Peer Education Program utilizes offender peer educators to discuss issues of prevention, reporting, and State and Federal laws pertaining to sexual abuse and sexual assault. This direct intervention helps change certain perceptions and attitudes among the offender population regarding prison sexual assault. 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 assaults. In FY 2012, 506 new offender peer educators were trained with a total of 1,291 peer educators system wide.

In FY 2012, peer educators conducted 3,375 Sexual Assault Awareness classes with 70,529 offender participants attending. The Sexual Assault Awareness curriculum is currently being provided in 86 correctional facilities. In addition, a Spanish Sexual Assault Awareness curriculum was developed and implemented to assist Spanish speaking offenders with limited English proficiency. In FY 2012, 232 Spanish Sexual Assault Awareness classes were conducted with 1,080 offender participants attending. In addition, the Sexual Assault Awareness class was incorporated into the Gang Renouncement and Disassociation (GRAD) process during Phase II of the program. In FY 2012, a total of 27 Sexual Assault Awareness classes were conducted during Phase II with 365 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) has produced a video toolkit for offenders titled "Speaking Up - Discussing Prison Sexual Assault." This video, provided in male, female, and Spanish versions is designed to assist facility staff in educating offenders on federal, state, and local sexual assault laws, policies and practices. In FY 2010, the TDCJ distributed Speaking Up video tool kits to all units, including privately operated facilities. The videos are utilized to enhance the Sexual Assault Awareness classes and provide additional training opportunities for incarcerated offenders.

**6) *To create an Offender Sexual Assault Victim Services Component within the SPPMO to address the needs of offender sexual assault victims.***

The SPPMO has taken an active role in ensuring that appropriate services are provided to offender victims of sexual assaults. 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

assault. The TDCJ continues to train additional staff to ensure adequate services are available at each of the agency's units to address the victim's needs.

*7) To enhance the offender orientation process by introducing a more formalized approach to advising offenders of prison life.*

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 segment illustrating general information documented in the Offender Orientation Handbook, and a five-hour peer education segment that includes the Sexual Assault Awareness curriculum and a comprehensive educational awareness segment on health services topics. In addition, offenders receive the *Sexual Assault Awareness Brochure* containing information on sexual assault prevention, reporting and what steps to take if an assault occurs.

## **XI 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 assault, and reports on grievances and disciplinary cases concerning sexual assaults 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 assaults;

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

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. (*First round of National Inmate Surveys is referenced on Page 17 of this report*). There are 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 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 assault, and reports on grievances and disciplinary cases concerning sexual assaults 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 include random samples of inmates who are 16 years old or older housed in adult facilities, as this population has 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 is intended to provide additional information on inmate risk factors and identify facility characteristics related to variations in sexual victimization.

### **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.

In 2013 PREA Standards will require State Governors to certify full compliance with the standards or be subject to the loss of five percent of any Department of Justice 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 TDCJ continued to review the newly promulgated standards throughout the summer of 2012. 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 assaults in correctional facilities. The primary responsibilities of the ombudsperson are to: (1) monitor agency policies for the prevention of sexual assaults in correctional facilities (2) oversee the administrative investigation of inmate complaints of sexual assaults (3) insure the impartial resolution of offender complaints of sexual assaults, and (4) collect statistics regarding all allegations of sexual assaults from correctional facilities in accordance with the established standards of the NPREC.

### **Monitoring Agency Policies**

In FY 2012, the PREA Ombudsman reviewed the TDCJ policies related to the prevention, reporting and investigation of sexual assaults in correctional facilities to ensure the duties and responsibilities of the PREA Ombudsman are reflected within the policies. The PREA Ombudsman was included in the Executive Services 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 2012, The PREA Ombudsman monitored the compliance of the processing of allegations of sexual assaults with agency policies, and researched best practices in the areas of sexual assault 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 assaults 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 2012, the PREA Ombudsman monitored the administrative investigations of allegations of offender-on-offender sexual assaults. Allegations of sexual assaults 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 2012, the PREA Ombudsman office reviewed 642 administrative investigations pertaining to allegations of offender-on-offender sexual assault.

### **Impartial Resolution of Complaints of Sexual Assaults**

The PREA Ombudsman processes complaints and inquiries from offenders incarcerated in the TDCJ correctional facilities and the public concerning allegations of sexual assault. 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 assaults to occur.

In FY 2012, the PREA ombudsman office received 1,028 public and offender inquiries. 469 of the inquiries were referred to various TDCJ departments for processing. The remaining 559 inquiries were processed by the PREA ombudsman office.

Anyone can report allegations of sexual assault to the PREA Ombudsman. However, due to the serious nature of sexual assaults, anyone knowledgeable of an offender-on-offender or staff-on-offender sexual assault 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 assault to correctional staff on their current facility. However, offenders may report allegations of sexual assault to the PREA Ombudsman Office, the OIG, the SPPMO, or the TDCJ - Ombudsman Coordinator. In addition, offenders may report allegations of sexual assault through the grievance process. The TDCJ employees are required to immediately report allegations of sexual assault to their supervisors.

Friends of offenders incarcerated in the TDCJ, family members and the general public are encouraged to report allegations of sexual assault to the PREA Ombudsman Office. Public inquiries concerning allegations of sexual assault 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 assaults 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 assault are referred to the OIG for criminal investigation.

## Collection of Statistical Data

In FY 2012, the PREA Ombudsman assisted in the coordination of data requested by the BJS for the completion of the national Survey of Sexual Violence for 2011. 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 assaults 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 assault 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 assault are reported to EAC and forwarded to the PREA Ombudsman office as an alleged sexual assault. 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 OIG opens a criminal case, remain identified as an *Alleged Sexual Assault*. 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 *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 2012, there were 642 allegations of offender-on-offender alleged sexual assaults reported to the PREA Ombudsman by the TDCJ. Only 287 (44.7%) 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 an *Alleged Sexual Assault*. The remaining 355 allegations were categorized as the *Sexual Contact* of one offender by another. Regardless of the category, the TDCJ policy of “Zero Tolerance” on sexual assaults assures every allegation is thoroughly investigated and appropriate disciplinary actions taken should the allegations be substantiated.

All dispositions of investigations pertaining to an *Alleged Sexual Assault* or *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 Sexual Assault Statistics

The PREA Ombudsman reviewed 287 administrative investigations identified as Alleged Sexual Assaults. There were 22 correctional facilities where five or more allegations were reported to have occurred. These facilities accounted for 37.2% of the allegations reported occurring in the TDCJ correctional facilities. There were 76 Alleged Sexual Assault cases reported on a different facility than the incident allegedly occurred on. A total of 12 out of the 287 incidents reported occurred on a female facility. Of the cases reviewed, 7 cases were substantiated, 32 cases were unfounded and 248 cases were unsubstantiated. The substantiated cases resulted in seven cases where disciplinary penalties were administered; the unfounded cases resulted in 28 disciplinary penalties administered and five of the unsubstantiated cases resulted in disciplinary penalties being administered. There were 73 allegations that had no identified assailants; 195 allegations had one assailant and 19 allegations had multiple (two or more) assailants, resulting in a total of 528 participants. There were a total of 287 alleged victims and 241 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 five assailants who received disciplinary cases for “Sexual Misconduct”, and six assailants received disciplinary cases for “Sexual Abuse”. No assailants received disciplinary cases for “Sexual Fondling” in this category.

Victims and assailants of Alleged Sexual Assaults 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 Sexual Assault investigations conducted by the unit administration.

<b>UCC Disposition</b>	<b>Assailant</b>	<b>Victim</b>
No Changes (Allegations Unfounded or Unsubstantiated)	159	144
Issued a Housing Change	50	59
Received a Unit Transfer	6	57
Placed in Safekeeping or Protective Custody	0	5
Released by the TDCJ Prior to Hearing	5	3
Other UCC Action	21	19

One of the challenges to conducting an administrative investigation of an Alleged Sexual Assault 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 assault as soon as possible, especially within 96 hours (four days). However, only 133 of the 287 incidents (46.3%) were reported within four days; 58 were reported within five to 30 days; 23 were reported within 31 to 90 days, and 50 were reported after 90 days. Information obtained during the administrative investigation could not determine the approximate date of occurrence for the remaining 23 incidents.

Another element of the administrative investigation is to determine the location the Alleged Sexual Assault occurred. The following table indicates general locations where victims claimed the Alleged Sexual Assaults 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	195	67.9%
Shower or Restroom Area	28	9.8%
Dormitory Housing Area	26	9.1%
Offender Dayroom	6	2.1%
Recreation Yard or Gym Area	4	1.4%
Other	28	9.7%

Specific offender demographic information pertaining to the reports of allegations of sexual assault was reviewed. Of the 287 incidents reported, 94 of the victims were Black; 64 of the victims were Hispanic, one victim was Other and 128 of the victims were White. Conversely, 153 of the assailants were Black; 44 of the assailants were Hispanic; one assailant was Other and 43 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 39 incidents (13.6%) 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 21 incidents (7.3%) where the alleged assailant was at least six inches taller than the alleged victim. The average weight of the alleged victim was 173 pounds and the average weight of the alleged assailant was 184 pounds. There were 46 incidents (16.0%) where the alleged assailant was at least 40 pounds heavier than the alleged victim.

Lastly, the PREA Ombudsman monitored the prevalence of Alleged Sexual Assaults occurring on correctional facilities to determine those facilities that increased from the previous year. In FY 2012, there were 24 facilities that had an increase of reports of sexual assaults occurring on the facility. While the majority of the 24 facilities experienced a minimal increase, there were 4 facilities that had five or more allegations reported than in FY 2011.

#### Offender-On-Offender Sexual Contact Statistics

The PREA Ombudsman reviewed 355 administrative investigations that are deemed as Sexual Contact. There were 21 correctional facilities where five or more allegations were reported to have occurred. These facilities accounted for 30.9% of the allegations reported occurring in TDCJ correctional facilities. There were 38 Sexual Contact cases that were reported on a different facility than the incident allegedly occurred on. 104 of the 355 incidents occurred on a female facility. Of the cases reviewed, 10 cases were substantiated, 52 cases were unfounded and 293 cases were unsubstantiated. The substantiated cases resulted in six cases where disciplinary penalties were administered; the unfounded cases resulted in 40 disciplinary penalties administered and there were no unsubstantiated cases resulting in disciplinary penalties being administered. Lastly, 60 of the allegations had no identified assailants; 286 allegations had one assailant and nine allegations had multiple (two or more) assailants, resulting in a total of 663 participants. There were a total of 355 alleged victims and 308 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. Two assailants received disciplinary cases for “Sexual Misconduct”; six assailants received disciplinary cases for “Sexual Fondling” and one assailant received a disciplinary case for “Sexual Abuse”.

Victims and assailants of alleged 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 alleged Sexual Contact investigations conducted by the unit administration.

<b>UCC DISPOSITION</b>	<b>Assailant</b>	<b>Victim</b>
No Changes (Allegations Unfounded or Unsubstantiated)	229	204
Issued a Housing Change	65	75
Received a Unit Transfer	1	33
Placed in Safekeeping	0	5
Released by the TDCJ Prior to Hearing	2	1
Other UCC Action	11	37

Offenders are informed through various media the necessity for reporting allegations as soon as possible, especially within 96 hours (four days). However, only 212 of the 355 incidents (59.7 %) were reported within four days; 65 were reported within five to 30 days; 21 were reported within 31 to 90 days; and 36 were reported after 90 days. Information obtained during the administrative investigation could not determine the exact date of occurrence of the remaining 21 incidents.

The following table indicates those general locations where victims claimed the alleged 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	128	36.1%
Dormitory Housing Area	46	13.0%
Offender Dayroom	36	10.1%
Hallway or Walkway	31	8.7%
Shower or Restroom Area	26	7.3%
Dining Hall or Kitchen	23	6.5%
Hospital or Clinic Area	16	4.5%
Recreation Yard or Gym	13	3.7%
Other	36	10.1%

Specific offender demographic information pertaining to the reports of allegations of Sexual Contact was reviewed. Of the 355 incidents reported, 126 of the victims were Black; 94 of the victims were Hispanic; four were Other and 131 of the victims were White. Conversely, 154 of the assailants were Black; 69 of the assailants were Hispanic; two were Other and 83 of the assailants were White. The average age of the victim was 33 and the average age of the assailant

was 34. However, there were 63 incidents (17.7%) 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 27 incidents (7.6%) where the alleged assailant was at least six inches taller than the alleged victim. The average weight of the alleged victim was 173 pounds and the average weight of the alleged assailant was 182 pounds. There were 71 incidents (20.0%) where the alleged assailant was at least 40 pounds heavier than the alleged victim.

The PREA Ombudsman monitored the prevalence of alleged Sexual Contact occurring on correctional facilities to determine those facilities that increased from the previous year. In FY 2012, there were 39 facilities that had an increase of reports of Sexual Contact occurring on the facility. While the majority of the 39 facilities experienced a minimal increase, there were 8 facilities that had five or more allegations reported than in FY 2011.

## OFFICE OF INSPECTOR GENERAL

The Office of the Inspector General, in conjunction with the Correctional Institutions Division, Health Services Division and the Special Prosecution Unit, is committed to creating a safer environment for 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 investigators receive continuing education on the Sexual Assault Family Violence Investigator Course (SAFVIC) Program, which is designed to provide law enforcement officers with the tools they need to effectively investigate and prevent sexual assault and family violence.
- 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.
- Meet with correctional staff, as appropriate, to ensure the timely reporting of allegations of sexual assaults to the OIG, timely medical assistance to the victims, and the preservation of evidence.

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

Following is an outline of the process of a sexual assault investigation:

1. The offender makes an outcry of being sexual assaulted to any correctional staff member or contacts the OIG directly via established confidential procedures. Third party and anonymous allegations to are also accepted and fully investigated.
2. A lead OIG investigator is assigned and thoroughly investigates the allegation. The offender victim is immediately offered a medical examination and, if appropriate, a sexual assault examination is performed. Any physical or biological evidence recovered from the sexual assault examination and the complete sexual assault evidence collection kit is turned over to the OIG investigator for preservation and analysis. The offender victim may request a representative who can be present during the forensic medical examination. During the interview process, pertinent information relating to the alleged sexual assault, such as the date, time, circumstances and suspect's information is obtained and documented.

3. The suspect's information is provided to security personnel to ensure the victim is isolated from the suspect.
4. 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. All OIG investigators are licensed peace officers and receive continuing education and training in sexual assault investigations and evidence collection.
5. In the event DNA evidence is collected and a suspect is identified, the investigator will obtain a search warrant to collect DNA evidence directly from the suspect for comparison with samples obtained during the sexual assault examination or recovered from the crime scene. All DNA evidence is then forwarded to the DPS crime laboratory for analysis.
6. During the course of the investigation, witnesses, potential witnesses and possible suspects are identified, interviewed, and written statements are obtained.
7. 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. Basic in the facts presented, the prosecutor will determination whether the case is accepted or declined for prosecution or referred to the Grand Jury for indictment.

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

Since 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. Sharing this information with the Classification and Records Department assists with assessing risk and making appropriate housing assignments.

Additionally, the sexual assault database tracks violations of Improper Sexual Activity with a Person in Custody. Because of the sexual nature of these violations, it is prudent to document these incidents.

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

During FY 2012, the OIG documented 377 alleged sexual assault incidents that met one of the below State of Texas Penal Code definitions.

- ◆ 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 2012, the OIG recorded 57 alleged incidents of Improper Sexual Activity with Persons in Custody, State of Texas Penal Code 39.04.

### **Reporting Delays:**

During FY 2012, 62 offenders made delayed sexual assault outcries greater than 365 days with the greatest being 5,627 days. Excluding the aforementioned 62 incidents, the average time for an offender to report a sexual assault was 33 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 Assault Statistics

This report provides a comprehensive review of the prevalence of alleged sexual assaults 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 assaults documented in this report, and the correlation between the administrative investigations and criminal investigations.

The TDCJ policy requires all offender-on-offender alleged sexual assaults 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 2012, there were 642 allegations of offender-on-offender alleged sexual assaults reported to EAC. Only 287 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 355 allegations did not meet the elements of a felony penal code violation and were categorized as the *Sexual Contact* of one offender by another.<sup>2</sup>

In FY 2012, there were a total of 377 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 Penal Code sections 22.011, 22.011(A), 22.01 and 22.021(A), respectively.

Of the 377 cases opened involving alleged violations of Penal Code Chapter 22, there were 374 criminal cases specific to sexual assault (Penal Code 22.011 and 22.021).

Of the 374 cases specific to sexual assault, 335 of the cases were identified as an offender-on-offender sexual assault; the remaining 39 cases included employee-on-offender sexual assaults.

Of the 335 cases identified as an offender-on-offender sexual assault 27 cases were received by the OIG from external sources and were not processed through EAC, and 16 were multiple cases opened on single incidents. There were five cases that were reported to EAC in the FY 2011; however, a case was not opened by OIG until FY 2012. The remaining 287 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 2012, there were 57 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, 2011 – August 31, 2012**

Violations	Penal Code	Reported Cases
Sexual Assault	22.011	287
Attempted Sexual Assault	22.011(A)	2
Aggravated Sexual Assault	22.021	87
Attempted Aggravated Sexual Assault	22.021(A)	1
<b>Total Number of Cases Reported:</b>		<b>377</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 2012 there were 374 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 374 cases, 287 of those reports were processed through EAC and forwarded to the PREA Ombudsman for review; 16 were multiple cases opened on single incidents; 39 were employee-on-offender allegations; 27 incidents were accepted by the OIG without an EAC number and five incidents were reported to EAC in a prior fiscal year.

**Improper Sexual Activity with Person in Custody**

**Date Range:  
September 1, 2011 – August 31, 2012**

Violations	Penal Code	Reported Cases
Improper Sexual Activity with Person in Custody	39.04	57

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  
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**FY 2008 – 2012  
Reported Sexual Assault Violations  
By Penal Code Section**

Violations	Penal Code	Fiscal Year				
		2008	2009	2010	2011	2012
Sexual Assault	22.011	221	179	254	376	287
Attempted Sexual Assault	22.011(A)	0	4	9	3	2
Aggravated Sexual Assault	22.021	26	27	23	80	87
Attempted Aggravated Sexual Assault	22.021(A)	0	1	0	3	1
<b>Total Number of Cases Reported:</b>		<b>247</b>	<b>211</b>	<b>286</b>	<b>462</b>	<b>377</b>

Statistical information provided for FY 2008 - FY 2012 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				
		2008	2009	2010	2011	2012
Improper Sexual Activity with Person in Custody	39.04	<b>103</b>	<b>53</b>	<b>44</b>	<b>66</b>	<b>57</b>

Statistical information provided for FY 2008 - FY 2012 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, 2011 – August 31, 2012**

<b>Disposition</b>	<b>Number of Cases</b>
Active (under investigation)	169
No Billed	3
No Charge	198
Presented for Prosecution	1
Prosecution Accepted (Pending Grand Jury)	2
Prosecution Declined	1

**Texas Department of Criminal Justice  
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**Sexual Assault Case Counts by Current Status  
Penal Codes 22.011(A) and 22.021(A)**

**Date Range:  
September 1, 2011 – August 31, 2012**

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

**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, 2011 – August 31, 2012**

<b>Disposition</b>	<b>Number of Cases</b>
Active (under investigation)	21
Indicted (True Billed)	3
No Charge	22
Presented for Prosecution	2
Prosecution Accepted (Pending Grand Jury)	3
Prosecution Declined	3
Sentenced	3

**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, 2011 – August 31, 2012**

Facility	County	Cases Reported
Allred	Wichita	13
Bartlett	Williamson	1
Beto	Anderson	15
Boyd	Freestone	4
Briscoe	Frio	1
Byrd	Walker	1
Carole S. Young Medical Facility	Galveston	1
Central	Fort Bend	1
Clements	Potter	21
Coffield	Anderson	10
Connally	Karnes	9
Crain	Coryell	7
Daniel	Scurry	1
Darrington	Brazoria	3
Dawson	Dallas	2
Dominguez	Bexar	2
Eastham	Houston	4
Estelle	Walker	8
Ferguson	Madison	7
Garza West	Bee	3
Gurney	Anderson	1
Halbert	Burnet	1
Hobby	Falls	19
Hodge	Cherokee	5
Holliday	Walker	3



Facility	County	Cases Reported
Hughes	Coryell	18
Huntsville	Walker	1
Hutchins	Dallas	3
Jester I	Fort Bend	2
Jester IV	Fort Bend	9
Lewis	Tyler	8
Lockhart	Caldwell	1
Lopez	Hidalgo	1
Luther	Grimes	1
Lychner	Harris	7
Lynaugh	Pecos	5
McConnell	Bee	23
Michael	Anderson	19
Middleton	Jones	2
Mineral Wells PPT	Parker	1
Montford	Lubbock	14
Mountain View	Coryell	2
Murray	Coryell	15
Neal	Potter	9
Pack	Grimes	2
Polunsky	Polk	3
Roach	Childress	1
Robertson	Jones	13
Scott	Brazoria	2
Skyview	Cherokee	9
Smith	Dawson	8
South Texas ISF	Harris	1
South Texas Treatment Center	Harris	1
Stevenson	Dewitt	1
Stiles	Jefferson	17
Stringfellow	Brazoria	3
Telford	Bowie	9
Terrell	Brazoria	3

Facility	County	Cases Reported
Torres	Medina	2
Transportation	Walker	1
Travis County	Travis	2
Vance	Fort Bend	1
Wallace	Mitchell	3
West Texas ISF	Terry	1
Willacy County	Willacy	1
Woodman	Coryell	3
Wynne	Walker	3
Total Number of Cases Reported		374

**Texas Department of Criminal Justice  
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**Sexual Assault Case Counts by Incident Location  
Penal Codes 22.011(A) and 22.021(A)**

**Date Range:  
September 1, 2011 – August 31, 2012**

Facility	County	Cases Reported
Estelle	Walker	1
Hobby	Falls	1
Skyview	Cherokee	1
Total Number of Cases Reported		3

**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, 2011 – August 31, 2012**

Facility	County	Cases Reported
Allred	Wichita	2
Bartlett	Williamson	1
Boyd	Freestone	1
Bridgeport PPT	Wise	1
Carole S. Young	Galveston	1
Clements	Potter	2
Coffield	Anderson	3
Crain	Coryell	8
Dalhart	Hartley	1
Dawson	Dallas	2
Ferguson	Madison	1
Hightower	Liberty	1
Hobby	Falls	1
Holliday	Walker	1
Hughes	Coryell	1
Huntsville	Walker	1
Kyle	Hays	1
Luther	Grimes	1
Lychner	Harris	1
Michael	Anderson	2
Mineral Wells PPT	Parker	1
Montford	Lubbock	2
Mountain View	Coryell	5
Murray	Coryell	3
Plane	Liberty	2
Powledge	Anderson	1

Facility	County	Cases Reported
Roach	Childress	1
Robertson	Jones	1
Sanders Estes	Johnson	1
Sayle	Stephens	1
South Texas TC	Harris	1
Stiles	Jefferson	1
Telford	Bowie	4
Total Number of Cases Reported		57