

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE**

**Safe Prisons/Prison Rape Elimination Act (PREA)  
Program**

**Calendar Year 2014**



**Prepared By**

**Texas Department of Criminal Justice**

**PREA Ombudsman**

**Office of Inspector General**

**August 2015**

## Safe Prisons/PREA Program

### Table of Contents

- I. Safe Prisons/PREA Program  
Correctional Institutions Division
- II. PREA Ombudsman
- III. Office of Inspector General
- IV. Appendices
  - Reported Offender-on-Offender Sexual Assault Violations by Penal Code Section and Current Disposition – Penal Codes 22.011 and 22.021
  - Reported Staff-on-Offender Sexual Assault Violations by Penal Code Section and Current Disposition – Penal Code 22.011 and 22.021
  - Reported Staff-on-Offender Improper Sexual Activity with a Person in Custody Violations by Penal Code Section and Current Disposition – Penal Code 39.04
  - Offender-on-Offender Sexual Assault Case Counts by Incident Location – Penal Codes 22.011 and 22.021
  - Staff-on-Offender Sexual Assault Case Counts by Incident Location – Penal Codes 22.011 and 22.021
  - Staff-on-Offender Improper Sexual Activity with a Person In Custody Case Counts by Incident Location – Penal Code 39.04

# **SAFE PRISONS/PREA PROGRAM**

## **Correctional Institutions Division**

The Texas Department of Criminal Justice (TDCJ) operates a Safe Prisons/PREA Program for the purpose of preventing and limiting offender-on-offender sexual abuse, physical assaults and extortion. The TDCJ strives to maintain the safety and security of all offenders incarcerated within the agency.<sup>1</sup>

The components of the Safe Prisons Program are as follows:

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

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

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

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

- *Pre-Service Training Program*
- *In-Service Training Program*

---

<sup>1</sup> Safe Prisons/PREA Program report is based on Calendar Year 2014 activity for consistency with PREA Standards, 28 C.F.R. Part §115.87 data collection requirements.

- *Leadership Development Training Program*
- *Specialized Training Program (Topics such as Armory Operations, Defensive Tactics, Hostage Negotiations, etc.)*
- *Ancillary Training Program*

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

The table below provides Calendar Year 2014 statistics related to CTSD instructional training programs containing Safe Prisons Program curriculum.

#### **CY 2014 CTSD Training Statistics**

<b>CTSD Training Programs with Safe Prisons Program Curriculum</b>	<b>CY 2014</b>	
	<b>Total Classes Conducted</b>	<b>Total Participants Completing</b>
<b>Pre-Service Training</b>	149	5,207
<b>In-Service Training</b>		
Non-Supervisor	961	22,524
Supervisor	299	5,145
CTSD Instructor In-Service	3	151
<b>Leadership Development Training</b>		
Sergeant, Food Service, and Laundry Manager Training Academy	12	812
Lieutenant Command School	9	210
Correctional Administrator Preparedness Training	4	79
Advanced Management Training for Majors	3	141
Assistant Warden Annual Training	3	133
<b>Ancillary Training Program</b>		
Staff Survivor	156	1,493
Correctional Awareness	49	438
Gender Specificity Training	n/a*	552

\* *Completion of Gender Specificity training (GST) is documented by date only. Employees are not enrolled into a specific class-, but rather receive GST as part of the*

*On the Job Training Program after pre-service. Employees transferring from male to female units complete the training as well.*

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

In addition to the TDCJ zero-tolerance policy for sexual abuse and sexual harassment, the video includes the topics of staff and offenders’ right to be free from retaliation for reporting sexual abuse and sexual harassment; dynamics of sexual abuse and sexual harassment; and how to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, and intersex (LGBTI). CTSD continues to present the video for viewing by correctional staff during Pre-Service and In-service training. All staff on the unit are shown the video during direct hire sessions as well to ensure compliance with the PREA standards.

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

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

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

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

The plan and operations manual sets forth the guidelines and procedures for investigating requests from offenders alleging increased risk of harm (e.g., sexual abuse, extortion and physical assault) from other offenders. It also encompasses procedures to follow when a

staff member is notified by other means (other than from the offender himself) that an offender's safety has been threatened. The policy provides different options for staff to take in order to protect an offender from harm and discusses when it is appropriate to use each option. The options include, but are not limited to:

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

The TDCJ revised the *Safe Prisons Plan* and the *Safe Prisons Operations Manual* in response to the National PREA standards. The newly titled *Safe Prisons/PREA Plan* and *Safe Prisons/PREA Operations Manual* were implemented in August 2014.

The policy revisions includes new definitions relating to incidents of sexual abuse and sexual harassment of incarcerated offenders. Although many TDCJ policies were already in compliance with the federal Prison Rape Elimination Act (PREA) Standards, other policies were revised to incorporate the requirements contained within the PREA standards.

With the finalization of the PREA standards in August of 2012, confinement agencies are required to ensure that each facility operated by the agency, or by private organization on behalf of the agency, is audited by auditors certified through the U.S. Department of Justice. The PREA standards mandates one-third of each facility type is audited by PREA auditors utilizing the approved PREA audit instrument during each one-year cycle starting August 20, 2013.

The PREA audit consists of three phases; the pre-audit, audit and post audit. The pre-audit involves the completion of the Pre-Audit Questionnaire by the facility PREA Manager, or warden designee that is forwarded to the auditor prior to the onsite audit. The onsite audit consists of a facility tour, additional document review, and interviews of staff and offenders. During the post audit phase the auditor determines the unit's compliance of meeting the standards, the final report and if necessary corrective action and/or an appeal process.

In August of 2014, the TDCJ began conducting the audits of the 95 state operated and 14 privately operated facilities (PF). In Calendar Year 2014, a total of 17 facilities were audited and all were found compliant with the PREA Standards. The agency publishes the auditor's final report on the TDCJ website in the Administrative Review and Risk Management Division webpage.

## CY14 Completed PREA Audits

Unit	Audit Date	Audit Status
Billy Moore (PF)	August 20, 2014	Passed
East Texas (PF)	August 11, 2014	Passed
Goodman	August 27, 2014	Passed
Woodman	September 4, 2014	Passed
Stiles	September 10, 2014	Passed
Beto	September 17, 2014	Passed
Torres	September 24, 2014	Passed
Ney	September 24, 2014	Passed
Estes (PF)	September 29, 2014	Passed
Jordan / Baten	October 1, 2014	Passed
Segovia	October 17, 2014	Passed
Lopez	October 17, 2014	Passed
Holliday	October 29, 2014	Passed
Luther	October 31, 2014	Passed
Telford	December 4, 2014	Passed
Terrell	December 10, 2014	Passed
Young	December 12, 2014	Passed

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

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

The TDCJ Offender Peer Education Program is a program that provides education training for offenders in the prevention of prison rape, PREA, and health services issues such as HIV, hepatitis and other communicable diseases. The training is delivered within 30 days of an offender's arrival into TDCJ. The program consists of a 12-hour training that is split into two separate divisions; (9 hours) Wall Talk for males or Woman to Woman for females that focuses on health issues and (3 hours) Sexual Assault Awareness that focuses on prevention of sexual abuse.

Sexual Assault Awareness Training (3 hour) program is a TDCJ Safe Prisons/PREA Program that offers offender education and training to teach other offenders on sexual assault awareness and prevention. The curriculum, provided in English and Spanish, help teach offenders on strategies to avoid victimization and emphasizes that offender-on-offender assault is not to be expected or tolerated. Peer educators receive initial training to be peer educators and are provided with a manual titled, "Safe Prisons Peer Educator Training Manual" that provides guidelines, activities and background information to teach the three-hour session.

### **III. Screening for Risk of Sexual Victimization and Abusiveness**

The *Safe Prisons/PREA Plan* and the *Safe Prisons/PREA Operations Manual* requires an assessment of all offenders during an intake screening and upon transfer to another unit for his or her risk of being sexually abused by other offenders or sexually abusive toward other offenders. The Safe Prisons/PREA Program Offender Assessment Screening tool was revised to include specific criteria mandated by the federal PREA standards to assess offenders for risk of sexual victimization. One component of the assessment tool directs staff to document offenders who identify as Lesbian, Gay, Bisexual, Transgender or Intersex (LGBTI). An offender who identifies as transgender or intersex are assigned special population codes to assist in biannual reviews of any threats to safety.

### **IV. 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.

**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/PREA 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.”

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

Protective custody is a classification for those offenders who require separate housing 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 in order to provide for their protection.

Safekeeping is a status assigned to offenders who require separate housing within general population because of a potential for victimization due to threats to their safety, a history of homosexual behavior, or lesbian, gay, bisexual, transgender, and intersex (LGBTI) identity, or other similar reasons. 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 alleged problem is unit or geographic specific. If an offender's problem is confined to a specific individual, alternatives such as cell changes or unit transfer could alleviate the situation;
7. Factors that would preclude an offender's placement into safekeeping. For example, it would not be prudent to recommend safekeeping for an offender who has a felony conviction for sexual assault of another offender; or
8. An offender's previous history in safekeeping status on prior commitment.

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

1. Requests for protective custody/safekeeping/transfers;
2. Offenders placed in protective custody/safekeeping/transfers;
3. Offenders denied protective custody/safekeeping/transfers; and
4. Requests that include allegations of extortion, sexual assault and violence;

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

## **V. Use of surveillance cameras.**

As of December 31, 2014, there were 8,833 surveillance cameras on units across the state. Of these, 4,451 are in housing areas (dormitory and cell block areas). In CY 2014, the TDCJ installed a comprehensive video surveillance system at the Connally Unit. Installation of comprehensive surveillance systems at the Coffield, Allred, and Telford units was in progress. Following completion of existing projects the total number of cameras on facilities will increase to approximately 11,200. 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.

## **VI. 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/PREA Plan*. This policy sets forth the philosophy of the TDCJ regarding the duty to protect offenders. It also sets forth guidelines and procedures for investigating allegations of offender victimization and measures to prevent an offender from being victimized.
- ◆ A lesson plan entitled “Offender Victim Representatives Sexual Abuse Training” was designed to develop appropriate skills in psychologists, sociologists, chaplains, social workers and case managers to provide counseling and emotional support services for an offender who alleges sexual abuse and undergoes a forensic medical exam. State law identifies offender victim representatives as psychologists, sociologists, case managers, and chaplains. The SPPMO and the TDCJ sexual assault nurse examiner (SANE) coordinator facilitate training annually for all newly designated offender victim representatives. The Offender Victim Representative (OVR) curriculum was revised in 2014 to include the effects of trauma on the brain and classroom activities. The SPPMO sought assistance from the Texas Association Against Sexual Assault (TAASA) by requesting review of the course revisions to ensure accuracy of course information. TAASA provided several recommendations regarding presentation flow which was applied to the 2014 curriculum revision. Training for new OVR’s began February 2014 and completed in April 2014.
- ◆ The CTSD Department Pre-Service program consists of a Health and Wellness – Suicide Prevention lesson that includes a 14-minute video entitled “Responding to Offender Suicides and Attempted Suicides” that details the responsibilities of staff in these critical situations. The TDCJ provided training on suicide prevention to 5,598 new cadets and 22,524 veteran correctional officers during pre-service and in-service academies in CY 2014. In addition, 5,145 correctional supervisors participated in suicide prevention training during in-service.
- ◆ Pamphlets placed in visiting areas in various prison units, state jails and private facilities include “Suicide Prevention – How You Can Help” to assist families in identifying risk factors for incarcerated loved ones who may be suicidal.
- ◆ Pocket cards containing suicide risk factors have been distributed to all TDCJ units. The pocket cards help alert staff to offenders who may exhibit signs or symptoms that put them at risk for suicide.

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

Organizationally, the director of the Correctional Institutions Division (CID) serves as the Safe Prisons/PREA Program coordinator. The SPPMO conducts statistical analysis of alleged sexual abuse; monitors each alleged incident to ensure agency compliance with

current policies; identifies issues for further policy development; and facilitates training and awareness programs for staff and offenders.

Historically, alleged offender-on-offender sexual abuse and other serious/unusual incidents were reported to the Emergency Action Center (EAC). Beginning in September 2013, allegations of staff-on-offender sexual abuse and staff-on-offender sexual harassment are also reported to the EAC. Prior to that date, allegations involving staff were investigated but only the allegations that met the elements of the Texas Penal Code for Sexual Assault or Improper Relationship with a Person in Custody were tracked for reporting purposes. The new term which defines staff-on-offender sexual abuse, includes allegations of attempted, threatened and requested acts, and occurrences of invasion of privacy and voyeurism.

Initially, all incidents of alleged sexual abuse are reported to EAC, who makes the reports available to the SPPMO, the Office of Inspector General (OIG) and the PREA ombudsman. After reviewing the allegations, the OIG advises the TDCJ of those incidents that meet the elements of the penal code. In addition to reports received through EAC, the OIG receives reports through other sources. Information reported to OIG from other sources is not processed through EAC; however, it is reconciled monthly for statistical purposes. Alleged sexual abuse and staff-on-offender sexual harassment reported through EAC may require an administrative review. The requirement is based upon the outcome of the investigation; unfounded allegations do not 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 of Prison and Jail Operations.

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

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

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

TDCJ has a total of 152 staff members assigned full time to Safe Prisons/PREA management offices across the state. There are 142 unit based employees whose primary responsibility is the management of Safe Prisons/PREA operations, investigations,

tracking, and analysis on the unit level. There are six regional Safe Prisons/PREA managers assigned to regional offices and four full time Safe Prisons/PREA management office staff assigned to the central office. Four Safe Prisons/PREA program staff, including the newly appointed PREA ombudsman, completed the PREA Auditor Certification conducted by the Department of Justice.

## **IX. Other Initiatives**

A sexual predator database/mainframe application helps in the process of identifying potential predators and victims on the facilities. The database is a collaborative effort between the SPPMO, Classification & Records and the OIG, the law enforcement arm of the TDCJ. All allegations of sexual abuse are referred to the OIG for assessment of criminal or administrative violations and applicable investigation. The SPPMO policies outline the process for identifying potential predators which encompasses OIG case reporting, unit identification, and analytical data from the database. Appropriate codes are then identified and added by the Safe Prisons/PREA Program manager on the TDCJ mainframe system. This identification assists in decisions regarding housing or programmatic assignments both within the institutions and post-release. The mainframe application includes tracking of extortion predators and victims.

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

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

Medical services are provided to offenders through the university medical school health care providers. Medical services personnel oversee any medical examination performed in response to an allegation of sexual assault. Offenders are transported to a free world facility for the administration of the forensic collection kit. 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 nurse is responsible for planning and implementing training for unit level nurses, mid-level practitioners (physician assistants and advanced practice nurses), physicians, and mental health care practitioners. The training for clinical staff includes how to detect and assess signs of sexual assault/abuse, how to respond effectively and professionally, how and to whom to report allegations or suspicions of sexual assault/abuse or sexual harassment. 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 CY 2014, the sexual assault examination coordinator conducted 110 In-Service sessions on Safe Prisons/PREA topics and forensic medical examinations with 1,204 medical and mental health professionals attending.

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

Additionally, the OIG coordinates and consults with security personnel on sexual assaults initiatives, both pro-active and re-active, utilizing covert surveillance equipment and enhanced investigative processes. As state of Texas certified Peace Officers, OIG investigators are required to participate in annual continuing education and training. While the state of Texas sets the mandatory training topics, the OIG also adds training topics that are tailored specifically for OIG investigators and sexual assault investigations.

The OIG record management system (RMS) maintains information on all criminal and administrative investigations. The RMS also provides statistical reports related the aforementioned investigations.

The TDCJ collaborates with several community-based organizations on a Human Immunodeficiency Virus (HIV) offender peer education program. The Wall Talk Curriculum – Peer Education 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 Health Services Peer Education Coordinator manages the peer education services and performance for the Wall Talk Program. The agency provides a similar peer education program as a component of the Safe Prisons/PREA Program. Officials partnered/contracted (grant-funded) with local community based organizations to assist with the development of a curriculum, printing of attendant training materials, and to provide training (three hours) to peer educators.

The Sexual Abuse Awareness Curriculum - Peer Education Program utilizes offender peer educators to discuss issues of prevention, reporting, and state and federal laws pertaining to sexual abuse. This direct intervention helps change certain perceptions and attitudes among the offender population regarding prison sexual abuse. Due to the success of this concept with other prison based initiatives, the TDCJ implemented the peer education

program at all units with the exception of psychiatric inpatient, intermediate sanction, and substance abuse treatment facilities. These facilities provide PREA curriculum during orientation. In CY 2014, 581 new offender peer educators were trained with a total of 1,300 peer educators system wide.

In CY 2014, peer educators conducted 2,774 Sexual Abuse Awareness classes with 60,550 offender participants attending. The Sexual Abuse Awareness curriculum is currently being provided in 97 state and private contract correctional facilities. In addition, a Spanish Sexual Abuse Awareness curriculum was developed and implemented to assist Spanish speaking offenders with limited English proficiency. In CY 2014, 457 Spanish Sexual Abuse Awareness classes were conducted with 1,948 offender participants attending. In addition, the Sexual Abuse Awareness class was incorporated into the Gang Renouncement and Disassociation (GRAD) process during Phase II of the program. In CY 2014, a total of 34 Sexual Abuse Awareness classes were conducted during Phase II with 551 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.

In 2013, the Safe Prisons/PREA Program Management Office collaborated with the TDCJ Media Services Division in the production of an offender educational video, titled Safe Prisons/PREA Offender Training. The video explains the TDCJ zero tolerance policy regarding sexual abuse and sexual harassment. Additionally, offenders will learn how to report incidents or suspicions of sexual abuse and sexual harassment; understand their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents. Furthermore, offenders will gain knowledge of TDCJ policies and procedures for responding to issues of sexual abuse and sexual harassment. During CY 2014, the 20-minute education video was completed and implemented in both English and Spanish formats.

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

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

health services topics. In addition, offenders receive the Sexual Abuse Awareness brochure containing information on sexual abuse prevention, reporting and what steps to take if an assault occurs.

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

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

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

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

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

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

The report identified five correctional facilities in the state of Texas among the top ten facilities in the nation meeting this criterion.

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

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

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

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

- ◆ Larger inmates are more prone to assault smaller cellmates;
- ◆ Inmates that have a history of committing sexual offenses or engaging in sexual misconduct are at higher risk of committing sexual abuse;
- ◆ Inmates with a history of incarceration are more prone to engage in sexual abuse;
- ◆ Inmates with a history of engaging in violence are more prone to engage in sexual violence;
- ◆ Inmates that engage in extortion are more prone to engage in sexual abuse;
- ◆ Inmates' gang affiliation may determine if they are more prone to engage in sexual abuse, and
- ◆ Inmates exhibiting aggressive attitudes during the intake process are more prone to engage in sexual abuse.

The Panel concluded its report with recommendations to policymakers and correctional administrators based on information and testimonies obtained from the hearings. In June

2009, the Commission submitted their final report and recommendations for National PREA Standards to the United States Attorney General.

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

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

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

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

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

In May 2013, the BJS released its final report, titled *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12*. The report highlighted a sample of 241 state and federal prisons was drawn to produce a sample representing approximately 10% of the 1,158 state and 194 federal adult confinement facilities. The survey was conducted by the

RTI International as in the previous two surveys. The survey was administered to 106,532 offenders ages 16 or older, with 43,721 of those offenders specifically incarcerated in 233 state and federal prisons with the remaining 62,811 offender incarcerated in jails, ICE, Indian country jails, and military facilities.

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

### **PREA Standards**

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

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

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

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

1. Prevention planning;
2. Responsive planning;

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

PREA Standards require state governors to certify full compliance with the standards or be subject to the loss of five percent of any DOJ grant funds that would otherwise be received for prison purposes, unless the governor submits an assurance that such five percent will be used only for the purpose of enabling the state to achieve and certify full compliance with the standards in the future. The preliminary review indicated the agency was already substantially compliant with most of the standards. As previously indicated on page 6 and 7, during CY 2014 the TDCJ demonstrated full compliance with the PREA standards on 14 state operated and 3 private contract facilities. The TDCJ remains committed to achieving full compliance certification on all facilities. Scheduling of the PREA audits will consist of approximately one-third of the TDCJ facilities per year.

## **PREA OMBUDSMAN**

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

### **Monitoring Agency Policies**

In 2014, the PREA ombudsman reviewed the TDCJ policies related to the prevention, detection, reporting and investigation of sexual abuse in correctional facilities to ensure the duties and responsibilities of the PREA ombudsman are reflected within the policies. The PREA ombudsman is included in the TDCJ policy review process, which submits agency policies to administrators for review and comments before adoption. Being a part of the review process enables the PREA ombudsman to provide responses to policies that may impact the duties and responsibilities of the PREA ombudsman and assess the impact the PREA standards may have on the current policies and procedures. In 2014, The PREA ombudsman monitored the compliance of the processing of allegations of sexual abuse with agency policies, and researched best practices in the areas of sexual abuse prevention, detection, reporting, investigation and education. Most of the research involved reviewing best practices identified by the BJS, the NIC, and the National PREA Resource Center; attending conferences that provide the opportunity to network with correctional professionals involved with issues related to sexual abuse in prison, and sharing information with other correctional professionals across the United States. Best practices identified by the PREA ombudsman were shared with the director of the TDCJ – CID for consideration and possible implementation.

### **Oversight of Administrative Investigations**

In CY 2014, the PREA ombudsman monitored the administrative investigations of allegations of sexual abuse and staff-on-offender sexual harassment. Allegations of sexual abuse and staff-on-offender sexual harassment 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 available 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 CY 2014, the PREA Ombudsman Office reviewed 727 administrative investigations pertaining to allegations of offender-on-offender sexual abuse and 766 allegations of staff-on-offender sexual abuse and sexual harassment.

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

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

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

In CY 2014, the PREA Ombudsman Office received 1,467 public and offender inquiries. 378 were referred to various TDCJ departments for processing. The remaining 1,089 inquiries were processed by the PREA Ombudsman Office.

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

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

## **Collection of Statistical Data**

In CY 2014, the PREA ombudsman assisted in the coordination of data requested by the BJS for the completion of the National Survey of Sexual Victimization for 2013. In addition, the PREA ombudsman coordinated with the TDCJ Executive Services Department, the SPPMO and the OIG to monitor the collection of data associated with sexual abuse in prisons to ensure accuracy of data utilized in reports to agency administrators and responses to public requests concerning PREA related statistics. The procedures include monthly reconciliation of the number of offender-on-offender allegations of sexual abuse and staff-on-offender sexual abuse and sexual harassment 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) and Improper Sexual Activity with a Person in Custody (Texas Penal Code 39.04) as determined by the OIG.

Initially, all allegations of sexual abuse are reported to EAC and made available to the PREA Ombudsman Office as an alleged sexual abuse. However, upon reconciliation with OIG the incidents are divided into two categories for reporting purposes. Incidents that meet the Texas Penal Code 22.011, 22.021, or 39.04 and after OIG opens a criminal case are categorized as *Nonconsensual Sexual Act*. However, incidents that do not meet the Texas Penal Codes 22.011, 22.021, and 39.04, OIG does not open a criminal case, are identified as *Abusive Sexual Contact*. These categories are consistent with BJS definitions and are used to assist in the compilation of data to complete the National Survey of Sexual Victimization each year.

During CY 2014, there were a total of 766 allegations of staff-on-offender alleged sexual abuse and sexual harassment incidents reported to the PREA ombudsman by the TDCJ. Of the 766 staff-on-offender allegations, 575 were considered sexual abuse, 126 involved sexual harassment, and 65 were categorized as voyeurism. Only 100 (13%) of the 766 allegations were identified by OIG as meeting the elements of the Texas Penal Code for Sexual Assault, Aggravated Sexual Assault, and Improper Sexual Activity with a Person in Custody.

There were 727 allegations of offender-on-offender alleged sexual abuse incidents reported to the PREA ombudsman by the TDCJ. Only 288 (39.6%) of the 727 offender-on-offender allegations were identified by OIG as meeting the elements of the Texas Penal Code for Sexual Assault or Aggravated Sexual Assault, and subsequently categorized as *Nonconsensual Sexual Act*. The remaining 439 offender-on-offender allegations were categorized as the *Abusive Sexual Contact* of one offender by another. Regardless of the category, the TDCJ policy of “zero tolerance” on sexual abuse and sexual harassment assures every allegation is thoroughly investigated and appropriate disciplinary actions taken should the allegations be substantiated.

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

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

#### *Offender-On-Offender Alleged Nonconsensual Sexual Act Statistics*

The PREA ombudsman received 288 reports of alleged sexual abuse from TDCJ resulting in the PREA ombudsman reviewing 288 administrative investigations identified as alleged

nonconsensual sexual acts. There were 21 correctional facilities where five or more allegations were reported to have occurred. These facilities accounted for 31.8% of the allegations reported occurring in the TDCJ correctional facilities. There were 54 alleged nonconsensual sexual acts reported on a different facility than the incident allegedly occurred on. A total of 10 out of the 288 incidents reported occurred on a female facility. Of the cases reviewed, six cases were substantiated, 43 cases were unfounded and 239 cases were unsubstantiated. The substantiated cases resulted in six cases where disciplinary penalties were administered; the unfounded cases resulted in 27 disciplinary penalties administered and 7 of the unsubstantiated cases resulted in disciplinary penalties being administered. There were 54 allegations that had no identified assailants; 211 allegations had one assailant and 23 allegations had multiple (two or more) assailants, resulting in a total of 561 participants. There were a total of 288 alleged victims and 273 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 nine assailants who received disciplinary cases for “sexual misconduct”, and four assailants received a disciplinary case for “sexual abuse”. One assailant received a disciplinary case for “extortion” in this category.

Victims of alleged nonconsensual sexual acts are interviewed by the Unit Classification Committee (UCC), who makes specific recommendations based on the disposition of administrative investigations. Assailants are reviewed as needed and/or required by various TDCJ policies. The following UCC dispositions are based on the findings of the alleged nonconsensual sexual act investigations conducted by the unit administration.

<b>UCC Disposition</b>	<b>Assailant</b>	<b>Victim</b>
No Changes (Allegations Unfounded or Unsubstantiated)	184	99
Issued a Housing Change	70	78
Received a Unit Transfer	5	69
Placed in Safekeeping or Protective Custody	0	14
Released by the TDCJ Prior to Hearing	0	3
Other UCC Action	14	25

One of the challenges to conducting an administrative investigation of an alleged nonconsensual sexual act is the delay in reporting the incident from the time it occurred to the time it was reported. Consequently, offenders are informed through various media the importance of reporting allegations of sexual abuse as soon as possible, especially within 96 hours (four days). However, only 149 of the 288 incidents (51.7%) were reported within four days; 57 were reported within five to 30 days; 25 were reported within 31 to 90 days, and 57 were reported after 90 days.

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

<b>General Location</b>	<b>Occurrences</b>	<b>Percent</b>
Cellblock Housing Area	199	69.1%
Shower or Restroom Area	29	10.1%
Dormitory Housing Area	31	10.8%
Offender Dayroom	11	3.8%
Recreation Yard or Gym Area	3	1.0%
Other	15	5.2%

Specific offender demographic information pertaining to the reports of allegations of nonconsensual sexual acts was reviewed. Of the 288 incidents reported, 94 of the victims were Black; 71 of the victims were Hispanic, three victims were Other and 120 of the victims were White. Conversely, 157 of the assailants were Black; 59 of the assailants were Hispanic and 58 of the assailants were White. The average age of the victim was 33.5 and the average age of the assailant was 34. However, there were 42 incidents (14.6%) where the alleged assailant was ten years or older than the alleged victim. The average height of the victim was 5'7" and the average height of the assailant was also 5'7". There were 18 incidents (6.3%) where the alleged assailant was at least six inches taller than the alleged victim. The average weight of the alleged victim was 177 pounds and the average weight of the alleged assailant was 189 pounds. There were 40 incidents (14.2%) where the alleged assailant was at least 40 pounds heavier than the alleged victim.

Lastly, the PREA ombudsman monitored the prevalence of alleged nonconsensual sexual acts occurring on correctional facilities to determine those facilities that demonstrated an increase in reports of incidents from the previous year. In CY 2014, there were 37 facilities that demonstrated an increase of reports of incidents occurring on the facility. While the majority of the 37 facilities experienced a minimal increase, there were four facilities that had five or more allegations reported than in CY 2013. Thirty facilities demonstrated a decrease of reported incidents on the facility from the previous year. While the majority of the 30 facilities experienced a minimal decrease, there was one facility that had greater than five fewer allegations reported than in CY 2013.

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

The PREA ombudsman reviewed 439 administrative investigations that are deemed as abusive sexual contact. There were 31 correctional facilities where five or more allegations were reported to have occurred. These facilities accounted for 38.2% of the allegations reported occurring in TDCJ correctional facilities. There were 54 Abusive Sexual Contact cases that were reported on a different facility than the incident allegedly occurred on. 84 of the 439 incidents occurred on a female facility. Of the cases reviewed, 13 cases were substantiated, 81 cases were unfounded and 345 cases were unsubstantiated. The substantiated cases resulted in 11 cases where disciplinary penalties were administered.

The unfounded cases resulted in 42 disciplinary penalties administered and there were six unsubstantiated cases resulting in disciplinary penalties being administered. Lastly, 65 of the allegations had no identified assailants; 347 allegations had one assailant and 27 allegations had multiple (two or more) assailants, resulting in a total of 852 participants. There were a total of 439 alleged victims and 413 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. Three assailants received a disciplinary case for “sexual misconduct”; seven assailants received disciplinary cases for “sexual fondling and there were no assailants that received a disciplinary case for “sexual abuse”.

Victims of alleged abusive sexual contact were interviewed by the UCC, which made specific recommendations based on the disposition of the administrative investigations. Assailants are reviewed by the UCC at the conclusion of the disciplinary hearing in which they were found guilty or as needed on a case-by-case basis. The following dispositions were based on the findings of the investigations conducted by the unit administration.

<b>UCC DISPOSITION</b>	<b>Assailant</b>	<b>Victim</b>
No Changes (Allegations Unfounded or Unsubstantiated)	285	169
Issued a Housing Change	113	165
Received a Unit Transfer	2	46
Placed in Safekeeping	0	2
Released by the TDCJ Prior to Hearing	0	3
Other UCC Action	13	54

Offenders are informed through various media the necessity for reporting allegations as soon as possible, especially within 96 hours (four days). However, only 252 of the 439 incidents (57.4%) were reported within four days; 97 were reported within five to 30 days; 38 were reported within 31 to 90 days; and 52 were reported after 90 days.

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

<b>General Location</b>	<b>Occurrences</b>	<b>Percent</b>
Cellblock Housing Area	194	44.2%
Dormitory Housing Area	62	14.1%
Offender Dayroom	41	9.3%
Shower or Restroom Area	45	10.3%
Dining Hall or Kitchen	20	4.6%
Recreation Yard or Gym	4	0.9%
Other	73	16.6%

Specific offender demographic information pertaining to the reports of allegations of abusive sexual contact was reviewed. Of the 439 incidents reported, 137 of the victims were Black; 123 of the victims were Hispanic; three were Other; and 176 of the victims were White. Of the 439 incidents reported, 206 of the assailants were Black; 113 of the assailants were Hispanic; one was Other; and 93 of the assailants were White. The average age of the victim was 35.6 and the average

age of the assailant was 36. However, there were 66 incidents (15%) where the alleged assailant was ten years or older than the alleged victim. The average height of the victim and the assailant was 5'6". There were 48 incidents (10.9%) where the alleged assailant was at least six inches taller than the alleged victim. The average weight of the alleged victim was 175 pounds and the average weight of the alleged assailant was 188 pounds. There were 85 incidents (19.4%) where the alleged assailant was at least 40 pounds heavier than the alleged victim.

The PREA ombudsman monitored the prevalence of alleged abusive sexual contact occurring on correctional facilities to determine those facilities that demonstrated an increase in reported incidents from the previous year. In CY 2014, there were 43 facilities that demonstrated an increase of reports of abusive sexual contact occurring on the facility. While the majority of the 43 facilities experienced a minimal increase, there were nine facilities that had five or more allegations reported than in CY 2013. Thirty-five facilities demonstrated a decrease of reported abusive sexual contact incidents on the facility. While the majority of the 35 facilities experienced a minimal decrease, there were six facilities that demonstrated a decrease of five or more reported allegations. Two of the five facilities that demonstrated a reduction in the five or more category experienced a decrease of over 35 incidents reported than in CY 2013.

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

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

As such, the OIG will:

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

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

The following delineates the sexual assault investigative process:

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

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

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

The OIG Records Management System (RMS) maintains information on all criminal and administrative investigations. The RMS maintains a master name file of all parties involved in an investigation and documents the individual role of each party. The RMS also provides statistical reports related to the aforementioned investigations, which are shared with the appropriate TDCJ officials.

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

During CY 2014, the OIG documented 316 alleged offender-on-offender sexual assault incidents that met one of the state of Texas Penal Code definitions listed below.

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

#### **Staff-on-Offender Sexual Assault and Improper Sexual Activity with Persons in Custody:**

Additionally, during CY 2014, the OIG documented 78 alleged incidents of sexual assault and 53 alleged incidents of Improper Sexual Activity with Persons in Custody, state of Texas Penal Code 39.04.

### **Reporting Delays:**

During CY 2014, 48 offenders made delayed sexual assault outcries greater than 365 days with the greatest being 7,263 days. Excluding the aforementioned 48 incidents, the average time for an offender to report a sexual assault was approximately 30 days.

### **Investigative Status and Dispositions:**

The following appendices provide status and disposition information, and incident location on OIG sexual assault and improper sexual activity with persons in custody investigations. “Active” or “investigation ongoing” means evidence is still being gathered, processed or evaluated, and a final determination has not yet been made. “Inactivated” investigations are temporarily halted awaiting laboratory analysis of evidence or other impediments that cause the temporary investigative cessation. “Substantiated” means the allegation was investigated and determine to have occurred, based on a preponderance of the evidence. “Unsubstantiated” means the investigation concluded that evidence was insufficient to determine whether or not the event occurred. “Unfounded” means the investigation determines that the alleged incident did not occur or the alleged incident is physically impossible to have occurred.

## **Safe Prisons/PREA Program**

### **Appendices**

## Appendices

- Reported Offender-on-Offender Sexual Assault Violations by Penal Code Section and Current Disposition – Penal Code 22.011 and 22.021
- Reported Staff-on-Offender Sexual Assault Violations by Penal Code Section and Current Disposition – Penal Code 22.011 and 22.021
- Reported Staff-on-Offender Improper Sexual Activity with a Person in Custody Violations by Penal Code Section and Current Disposition– Penal Code 39.04
- Offender-on-Offender Sexual Assault Case Counts by Incident Location – Penal Codes 22.011 and 22.021
- Staff-on-Offender Sexual Assault Case Counts by Incident Location – Penal Codes 22.011 and 22.021
- Staff-on-Offender Improper Sexual Activity with a Person In Custody Case Counts by Incident Location – Penal Code 39.04

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

**Reported Offender-on-Offender Sexual Assault Violations  
By Penal Code Section  
Penal Codes 22.011 and 22.021**

**Date Range:  
January 1, 2014 – December 31, 2014**

Violations	Penal Code	Reported Cases
Sexual Assault	22.011	250
Aggravated Sexual Assault	22.021	66
<b>Total Number of Cases Reported:</b>		<b>316</b>

**Reported Offender-on-Offender Sexual Assault Case Counts by  
Current Disposition  
Penal Codes 22.011 and 22.021**

Disposition	Number of Cases
Substantiated	5
Unsubstantiated	142
Unfounded	19
Investigation Ongoing	150
<b>Total Number of Cases Reported</b>	<b>316</b>

Allegations reported under Penal Code Sections 22.011 and 22.021 include allegations of offender-on-offender sexual assaults. In CY2014, there were 316 sexual assault cases opened by the OIG involving a combined total of 413 alleged assailants. Of the 316 cases, 288 were processed through the EAC and forwarded to the PREA ombudsman for review; 28 cases were opened by the OIG without an EAC number.

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

**Reported Staff-on-Offender Sexual Assault Violations  
By Penal Code Section  
Penal Codes 22.011 and 22.021**

**Date Range:  
January 1, 2014 – December 31, 2014**

Violations	Penal Code	Reported Cases
Sexual Assault	22.011	61
Aggravated Sexual Assault	22.021	17
<b>Total Number of Cases Reported</b>		<b>78</b>

**Reported Staff-on-Offender Sexual Assault Case Counts by Current  
Disposition  
Penal Codes 22.011 and 22.021**

Disposition	Number of Cases
Substantiated	0
Unsubstantiated	33
Unfounded	10
Investigation Ongoing	35
<b>Total Cases</b>	<b>78</b>

Allegations reported under Penal Code Sections 22.011 and 22.021 include allegations of staff-on-offender-sexual assaults. In CY 2014, there were 78 staff-on-offender criminal cases opened by the OIG involving a combined total of 116 alleged assailants. Of the 78 cases, 65 were processed through the EAC and forwarded to the PREA ombudsman for review, 13 cases were opened by the OIG without an EAC number.

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

**Reported Staff-on-Offender Improper Sexual Activity with a  
Person in Custody Violations by Penal Code Section  
Penal Code 39.04**

**Date Range:  
January 1, 2014 – December 31, 2014**

Violation	Penal Code	Reported Cases
Improper Sexual Activity with Person in Custody	39.04	53
<b>Total Number of Cases Reported</b>		<b>53</b>

**Reported Staff-on-Offender Improper Sexual Activity with a Person in  
Custody Case Counts by Current Disposition  
Penal Code 39.04**

Disposition	Number of Cases	
Substantiated	11	
Unsubstantiated	20	
Unfounded	3	
Investigation Ongoing	19	
<b>Total Number of Cases Reported</b>		<b>53</b>

Allegations reported under Penal Code Section 39.04 involve allegations of staff members engaging in sexual contact, sexual intercourse or deviate sexual intercourse with an offender. In CY 2014, there were 53 Improper Sexual Activity with a Person in Custody criminal cases opened involving a combined total of 61 alleged assailants. Of the 53 cases, 35 were processed through the EAC and forwarded to the PREA ombudsman for review; 18 were opened by the OIG without an EAC number.

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

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

**Date Range:  
January 1, 2014 – December 31, 2014**

Facility	County	Cases Reported
Allred	Wichita	13
Bartlett	Williamson	1
Beto	Anderson	10
Boyd	Freestone	3
Bradshaw	Rusk	1
Byrd	Walker	5
Clemens	Brazoria	3
Clements	Potter	13
Coffield	Anderson	6
Connally	Karnes	7
Crain	Coryell	2
Dalhart	Hartley	1
Daniel	Scurry	4
Darrington	Brazoria	5
Dominquez	Bexar	3
East Texas Treatment Facility	Rusk	1
Eastham	Houston	4
Ellis	Walker	4
Estelle	Walker	8
Ferguson	Madison	7
Fort Stockton	Pecos	1

<b>Facility</b>	<b>County</b>	<b>Cases Reported</b>
Garza West	Bee	2
Gurney	Anderson	2
Hamilton	Brazos	1
Hightower	Liberty	3
Hilltop	Coryell	1
Hobby	Falls	6
Hodge	Cherokee	6
Holliday	Walker	1
Hughes	Coryell	16
Huntsville	Walker	1
Hutchins	Dallas	2
Jester I	Fort Bend	1
Jester IV	Fort Bend	17
Lewis	Tyler	15
Lindsey	Jack	3
Lychner	Harris	3
McConnell	Bee	8
Michael	Anderson	23
Mineral Wells PPT	Parker	1
Montford	Lubbock	11
Moore	Fannin	1
Mountain View	Coryell	7
Murray	Coryell	5
Neal	Potter	1
Pack	Grimes	1
Polunsky	Polk	7
Powledge	Anderson	2
Ramsey	Brazoria	2

<b>Facility</b>	<b>County</b>	<b>Cases Reported</b>
Roach	Childress	1
Robertson	Jones	10
Sanchez	El Paso	1
Sanders Estes	Johnson	1
Scott	Brazoria	1
Segovia	Hidalgo	1
Skyview	Cherokee	1
Smith	Dawson	7
South Texas ISF	Harris	1
Stiles	Jefferson	14
Stringfellow	Brazoria	1
Telford	Bowie	20
Terrell	Brazoria	1
Travis County	Travis	3
Wallace	Mitchell	1
Wynne	Walker	1
<b>Total Number of Cases Reported</b>		<b>316</b>

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

**Staff-on-Offender Sexual Assault Case Counts by Incident Location  
Penal Code 22.011 and 22.021**

**Date Range:  
January 1, 2014 – December 31, 2014**

<b>Facility</b>	<b>County</b>	<b>Cases Reported</b>
Allred	Wichita	3
Beto	Anderson	1
Clements	Potter	2
Coffield	Anderson	2
Connally	Karnes	1
Darrington	Brazoria	1
Estelle	Walker	1
Hobby	Falls	1
Hughes	Coryell	19
Huntsville	Walker	1
Jester IV	Fort Bend	9
Lewis	Tyler	1
Lynaugh	Pecos	1
McConnell	Bee	1
Michael	Anderson	1
Middleton	Jones	1
Montford	Lubbock	1
Mountain View	Coryell	3
Pack	Grimes	2
Polunsky	Polk	1
Ramsey	Brazoria	2
Robertson	Jones	3

<b>Facility</b>	<b>County</b>	<b>Cases Reported</b>
Scott	Brazoria	1
Skyview	Cherokee	7
Stiles	Jefferson	10
Telford	Bowie	2
<b>Total Number of Cases Reported</b>		<b>78</b>

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

**Staff-on-Offender Improper Sexual Activity with a Person in Custody**  
**Case Counts by Incident Location**  
**Penal Code 39.04**

**Date Range:**  
**January 1, 2014 – December 31, 2014**

<b>Facility</b>	<b>County</b>	<b>Cases Reported</b>
Allred	Wichita	1
Bartlett	Williamson	1
Beto	Anderson	1
Bridgeport PPT	Wise	1
Briscoe	Frio	1
Clements	Potter	3
Coffield	Anderson	2
Cole	Fannin	2
Crain	Coryell	3
Estelle	Walker	1
Goodman	Jasper	1
Hilltop	Coryell	1
Hobby	Falls	1
Hodge	Cherokee	1
Holliday	Walker	1
Hughes	Coryell	4
Huntsville	Walker	1
Hutchins	Dallas	1
Jester IV	Fort Bend	2
Lewis	Tyler	2
Lopez	Hidalgo	1

<b>Facility</b>	<b>County</b>	<b>Cases Reported</b>
Lychner	Harris	1
Moore	Rusk	1
Mountain View	Coryell	1
Murray	Coryell	1
Neal	Potter	1
Plane	Liberty	2
Polunsky	Polk	1
Ramsey	Brazoria	1
Roach	Childress	1
Robertson	Jones	2
Scott	Brazoria	2
Smith	Dawson	2
Stiles	Jefferson	2
Wynne	Walker	1
Young	Galveston	2
<b>Total Number of Cases Reported</b>		<b>53</b>