



TEXAS DEPARTMENT  
OF  
CRIMINAL JUSTICE

**NUMBER:** ED-02.03 (rev. 6)  
**DATE:** October 27, 2011  
**PAGE:** 1 of 10  
**SUPERSEDES:** ED-02.03 (rev. 5)  
October 16, 2009

## **EXECUTIVE DIRECTIVE**

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**SUBJECT:** OMBUDSMAN PROGRAM

**AUTHORITY:** Texas Government Code § 493.016

Reference: American Correctional Association (ACA) Standard 4-4019

**APPLICABILITY:** Texas Department of Criminal Justice (TDCJ)

**POLICY:**

The TDCJ shall establish guidelines for the management of the Ombudsman Program and procedures for responding to complaints or inquiries regarding the TDCJ, both through the Ombudsman Program and TDCJ staff.

**DEFINITIONS:**

“Complaint” is any grievance or expression of dissatisfaction or concern regarding a matter within the jurisdiction of the Texas Board of Criminal Justice (TBCJ) or the TDCJ.

“Inquiry” is any written or verbal communication from the public or legislature requesting information regarding the TDCJ or unit policies and procedures.

“Legislative Inquiry” is any written or verbal communication from an elected or appointed official or their agent.

“Offender Protection Situation” is an allegation that contains specific information indicating an offender may be at substantial risk of personal injury, serious or irreparable harm, or death.

“Ombudsman” is the TDCJ official appointed to respond to complaints and inquiries from the public.

“Proponent” is the TDCJ staff responsible for a particular function, such as Classification and Records, Victim Services Division, Health Services Division, or Office of Inspector General (OIG) - Investigations Division.

“Public” is all persons except TDCJ employees, offenders incarcerated by the TDCJ, and elected or appointed officials.

“Response” is a letter, facsimile, e-mail, or phone call that: (a) acknowledges receipt of an inquiry or complaint; (b) provides preliminary information, if any is available; and (c) indicates actions are being taken; or (d) provides information about the outcome of actions taken by the TDCJ. Information provided is governed by rules of confidentiality delineated in the *Public Information Act Manual*. The acknowledgment also gives an estimated time frame before a final response is available.

“Workday” is Monday through Friday, excluding state and national holidays when TDCJ administrative offices are closed and days when offices are closed at the direction of the executive director.

## **PROCEDURES:**

### I. Organization and Responsibilities of the Ombudsman Program

The Ombudsman Program contains the following three sections:

#### A. Ombudsman Coordinator’s Section

1. The Ombudsman Coordinator’s Section, under the direction of the executive director, shall be responsible for the following:
  - a. Processing complaints and inquiries from the public concerning executive level issues regarding TDCJ operations and using discretion to either directly respond to or forward division level complaints and inquiries to the appropriate ombudsman section;
    - (1) Responding to complaints and inquiries from the public regarding any of the following topics:
      - (a) TDCJ policy;
      - (b) Policy related questions regarding individual offenders;
      - (c) General information regarding the TDCJ;
      - (d) Privately operated facilities. Complaints and inquiries shall be answered with assistance of the Private Facility Contract Monitoring/Oversight Division (PFCMOD);

- (e) Pre-parole transfer facilities (PPTs). Complaints and inquiries shall be answered with the assistance of the PFCMOD; and
  - (f) Intermediate sanction facilities (ISFs). Complaints and inquiries shall be answered with the assistance of the PFCMOD.
- (2) Responding to all legislative inquiries received by or referred to the ombudsman's office, in coordination with the office of the chief of staff. Legislative inquiries that request a response to a constituent shall be considered general correspondence.
- b. Using the Ombudsman Case Tracking System (OCTS) to maintain and track inquiries and responses as well as generate various informational and statistical reports. The OCTS shall also enable the ombudsman coordinator to monitor workloads at each divisional ombudsman section and ensure appropriate staffing and resource allocation;
- c. Ensuring compliance with ombudsman policies and procedures by divisional ombudsman sections;
- d. Developing informational materials on submitting inquiries to the TDCJ, which may also include general information concerning the TDCJ. Informational materials may include pamphlets for distribution to the public and posters placed in visitation areas on each unit that outline the proper procedures for submitting inquiries and displaying contact information for the Ombudsman Program;
- e. Training TDCJ staff on handling complaints and inquiries from the public and how to properly use the Ombudsman Program when complaints and inquiries that are not within their authority are received;
- f. Notifying other state agencies that the TDCJ has an Ombudsman Program to which those agencies can refer public complaints and inquiries about the TDCJ;
- g. Creating, with input from the divisional ombudsman sections, and maintaining uniform policies and procedures for the Ombudsman Program;

- h. Ensuring the TDCJ is being responsive to the public. Through annual reviews of the divisional ombudsman sections by the Ombudsman Coordinator's Section, the ombudsman coordinator shall assess the staffing and workload to ensure each office has adequate staff to handle the workload and provide responses within required time frames. Assessment recommendations shall be forwarded to the appropriate division director;
  - i. Preparing quarterly and monthly activity reports presenting information from each Ombudsman Section for distribution to the executive director, deputy executive director, division directors, and other staff as appropriate;
  - j. Ensuring the executive director and division directors are informed of any problematic, systemic trends; and
  - k. Ensuring ombudsman employees are trained in policies and procedures set forth in the TDCJ *Ombudsman Procedures Manual*.
2. The Ombudsman Coordinator's Section shall be monitored and reviewed by the resolution support manager and administrative coordinator for program analysis.

B. Correctional Institutions Division Ombudsman Section

The CID Ombudsman Section responds to complaints and inquiries from the public regarding state operated units, including state operated parole facilities and substance abuse felony punishment facilities (SAFPFs).

C. Parole Division Ombudsman Section

The Parole Division Ombudsman Section responds to issues from the public relating to parole supervision, concerns from offenders on parole or mandatory supervision, and any other issue relating to parole. However, if the offender is currently assigned to a TDCJ facility and the question is general, for example an inquiry regarding parole eligibility, another Ombudsman Section may answer the question.

## II. Directing Complaints and Inquiries to the TDCJ

- A. The name, mailing address, and phone number to be used for the purpose of directing complaints and inquiries to the TDCJ is available on the TDCJ website as well as information distributed by the Ombudsman Coordinator's Section.
- B. Individuals may also make public comment twice a year at the second and fourth regularly scheduled TBCJ meetings in accordance with BR-151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice."

## III. Receipt of Complaints and Inquiries

- A. Complaints or inquiries regarding the TDCJ or offenders within its jurisdiction may come from a variety of sources. Most are received by telephone, e-mail, or letter. Issues may come from any source, including but not limited to, a question raised at a meeting, an inquiry at a legislative hearing, a request via a legislative office, or a request via an offender family support group, such as the Texas Inmate Family Association or Texas Citizens United for Rehabilitation of Errants. Any TDCJ employee or agent, such as a TBCJ member, contract employee, or other similar individual, who receives an inquiry or complaint is required to ensure it is given to the correct department for resolution.
- B. The Ombudsman Program shall request that complaints and inquiries include specific details, if possible, and be provided in writing, although verbal complaints and inquiries shall be accepted.
- C. All TDCJ staff who receive a complaint or inquiry from the public shall respond in a courteous manner and in accordance with established TDCJ policy guidelines.
- D. If the complaint or inquiry pertains to the staff member's area of knowledge and authority, the staff member shall respond to the complaint or inquiry, attempting to resolve the situation, if possible.
- E. If the complaint or inquiry does not pertain to the staff member's area of knowledge and authority, the staff member shall gather the pertinent information and forward it to the appropriate proponent. Any questions regarding the appropriate proponent shall be referred to the section administrator.

However, if the inquiry or complaint is received by telephone and the staff member has a clear understanding of the appropriate proponent and a correct, current contact number for that proponent, the call may be forwarded as long as the staff member stays on the line with the caller until connected with the receiving party. It is acceptable in these cases to connect the caller to the voice messaging system of the receiving party unless the caller objects.

- F. All inquiries from the news media shall be routed to the TDCJ Public Information Office.
- G. Upon receipt of a complaint or inquiry, the Ombudsman Program shall review the open and closed case file lists to determine if litigation is pending by the offender subject of the complaint or inquiry. If an open case is listed, the Ombudsman Program shall review the case summary to determine whether the nature of the complaint or inquiry is the subject of the litigation. If the Ombudsman Program cannot determine whether the issue is the same, the Ombudsman Program may contact the Office of the General Counsel.

#### IV. Investigation and Resolution of Complaints and Inquiries

- A. Resolution of complaints or inquiries may take a variety of forms. The diversity of the situations that may arise is varied; therefore, all resolution paths may not be explored in this directive. Each investigative body is required to use every means appropriate to obtain as much information as possible regarding the situation in order to provide a complete and thorough response. Investigative paths may include:
  - 1. Research of policies and procedures for general operations questions;
  - 2. Research of information available regarding an offender on the TDCJ mainframe or Parole Division Offender Information Management System (OIMS); or
  - 3. Requesting information or an investigation from the appropriate proponent or requesting an investigation of the complaint. Investigations shall be reviewed to ensure they are complete and thorough.
- B. Investigation and resolution of complaints and inquiries are handled in a variety of ways through different investigative proponents. Although not an exhaustive list, some of the most commonly used proponents in responding to complaints and inquiries include:
  - 1. **OIG:** Investigates administrative and criminal cases. Administrative cases are related to investigations of possible violations of PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees," including improper use of force and retaliation for use of the offender grievance procedure. Criminal cases are related to investigations of possible criminal acts involving offenders or staff. Complaints and inquiries shall be referred to the OIG in accordance with AD-16.20, "Reporting Incidents/Crimes to the OIG."
  - 2. **Health Services Division:** Investigates and resolves medical grievances filed by offenders. The Patient Liaison Program investigates inquiries

from third parties regarding access to health care for offenders. Offenders are not permitted to submit complaints and inquiries directly to the Patient Liaison Program.

3. Public Information Office: All inquiries from media are referred to the Public Information Office.
  4. Community Justice Assistance Division (CJAD): Responds to all inquiries regarding community supervision.
  5. Reentry and Integration Division (RID): Responds to inquiries regarding offender reentry resources and inquiries to the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) regarding offenders with serious mental illnesses, mental retardation, terminal or serious medical conditions, physical disabilities, and those who are elderly, as appropriate.
- C. Additional departments that may be used for resource information include:
1. Offender Grievance Program: Provides the Ombudsman Program with information about issues investigated as a result of an offender grievance. This office responds to formal, written complaints and inquiries from individuals in the custody of the TDCJ.
  2. Safe Prisons Program: Tracks the investigation of alleged sexual assaults and offender protection requests.
  3. Access to Courts: Provides technical guidance regarding any inquiry involving access to courts, counsel, or public officials.
- D. All interactions with the *Prison Rape Elimination Act* (PREA) ombudsman shall be handled in accordance with applicable policies.
- E. Requests for documents under the *Public Information Act* shall be identified immediately and handled according to the *Public Information Act Manual*.
- F. Following investigation, the proponent:
1. Forwards investigative information to the requesting divisional ombudsman section, which drafts a response; or
  2. Responds directly to the complaint or inquiry with a copy provided to the requesting divisional ombudsman section.

Due to the confidential nature of some OIG investigations, some requests or inquiries may only receive a response noting that the matter is being investigated.

- G. On a monthly basis, the ombudsman sections shall review all complaints and inquiries forwarded for a direct response by the proponent to ensure a copy has been received as evidence the inquiry or complaint has been addressed.

V. Response Time Frames

A. Received from the Public

Complaints and inquiries shall be responded to within 10 workdays. Written complaints and inquiries shall receive a written response, unless other arrangements have been made with the person contacting the TDCJ. Telephone complaints and inquiries may be responded to by telephone or in writing in the same time frames as written complaints and inquiries. If it is anticipated that the response will take more than 10 workdays due to further investigation, the ombudsman shall request a 10 day extension. If approved, the ombudsman shall send an acknowledgment of receipt of the correspondence or telephone complaint or inquiry and indicate an approximate time frame in which to expect a final response. The maximum time frame to respond is 10 workdays, unless an extension is authorized.

B. Received from Elected Officials

Complaints and inquiries from elected federal and state officials shall be responded to in writing, unless otherwise requested. The response shall be sent within five workdays of receipt. If it is anticipated that the response will take more than five workdays due to further investigation, the ombudsman shall request a five day extension. If approved, the ombudsman shall send written notification to the official that the TDCJ received the correspondence or telephone complaint or inquiry and indicate an approximate time frame to expect a final response. The maximum time frame to respond is five workdays, unless an extension is authorized.

C. Offender Protection Situations

1. Offender on Offender

Allegations of offender protection situations where another offender(s) is the perpetrator shall be reported immediately, on the same day received, and by the recipient of the information, to unit administration by the appropriate divisional ombudsman or the ombudsman coordinator for investigation and appropriate action. A response shall be sent immediately upon completion of the investigation.

2. Staff on Offender

Allegations of offender protection situations where a staff member(s) is the alleged perpetrator shall be reported immediately, on the same day received, to unit administration and the OIG in accordance with AD-16.20, "Reporting Incidents/Crimes to the OIG." A response shall be sent immediately upon completion of the investigation.

3. Sexual Assault

Allegations regarding sexual assaults shall be forwarded immediately, on the same day received, and by the recipient of the information, to the PREA ombudsman, unit administration, and the OIG.

D. Extensions on time limits may be authorized, if necessary, by one of the following:

1. Appropriate division director;
2. Resolution support manager;
3. Ombudsman coordinator; and
4. Assistant ombudsman coordinator.

All extensions shall be documented and maintained in the file.

E. At least every 10 workdays, and until final disposition of the complaint, the appropriate ombudsman section shall notify the complainant of the status of the complaint unless the notice would jeopardize an ongoing criminal investigation.

VI. Documentation of Complaints and Inquiries

A. An information file shall be maintained by the appropriate department or section for each inquiry or complaint filed. The following information shall be included in the file:

1. Name of the person who filed the inquiry or complaint;
2. Date the inquiry or complaint was received;
3. Subject matter of the inquiry or complaint;
4. Name of each person contacted in relation to the inquiry or complaint;
5. Summary of the results of the review or investigation of the inquiry or complaint; and

6. Explanation of the reason the file was closed, if the TDCJ closed the file without taking action other than to investigate the inquiry or complaint.
  - B. Files shall be retained in accordance with the *TDCJ Records Retention Schedule*.
- VII. Dissemination of TDCJ's Policies and Procedures Relating to Investigation and Resolution
- A. A copy of this directive shall be included in the direct hire packet for new employees; and
  - B. Each person filing an inquiry or complaint shall receive policy information in the response to the inquiry or complaint and be directed to the policy on the TDCJ website.

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Brad Livingston\*  
Executive Director

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\* Signature on file