



TEXAS DEPARTMENT  
OF  
CRIMINAL JUSTICE

NUMBER: ED-02.10  
DATE: June 15, 2011  
PAGE: 1 of 5  
SUPERSEDES: None

## **EXECUTIVE DIRECTIVE**

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SUBJECT: PRISON RAPE ELIMINATION ACT COMPLAINTS AND INQUIRIES

AUTHORITY: Texas Government Code §§ 501.008, 501.172-178

Reference American Correctional Association (ACA) Standard 4-4281-3

APPLICABILITY: Correctional Institutions Division (CID), Private Facility Contract Monitoring Oversight Division, Administrative Review and Risk Management (ARRM) Division, and Office of the Inspector General (OIG)

### **POLICY:**

The Texas Board of Criminal Justice (TBCJ) established the Prison Rape Elimination Act (PREA) ombudsman's office to investigate and process PREA complaints and inquiries in accordance with BP-02.09, "Prison Rape Elimination Act Ombudsman Policy Statement." The Texas Department of Criminal Justice (TDCJ) shall establish guidelines for reporting complaints or inquiries from the public, elected officials, and offenders pertaining to allegations of sexual assault, sexual contact, or staff sexual misconduct and related TDCJ initiatives to the PREA ombudsman.

### **DEFINITIONS:**

"Correctional Facility" is a secure facility operated by or under contract with the TDCJ for an offender as defined in this policy.

"Employee" includes any person employed by the TDCJ on a full-time, part-time, or temporary basis, or a contract employee.

"Offender" is an inmate or state jail defendant confined in a facility operated by or under contract with the TDCJ.

"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.

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“Other Individual” for the purpose of this directive, includes an employee of a vendor, volunteer, official visitor, or another agency’s representative.

“PREA Complaint” is any grievance or expression of dissatisfaction or concern regarding sexual assault, sexual contact, or staff sexual misconduct.

“PREA Inquiry” is a written or verbal communication requesting information regarding the PREA, or allegation of sexual assault, sexual contact, or staff sexual misconduct.

“PREA Ombudsman” is the official appointed by the TBCJ to respond to PREA complaints or PREA inquiries.

“Proponent,” for the purpose of this directive, is the TDCJ department or division responsible for a particular function, such as the Classification and Records Department or Health Services Division.

“Public” is all persons except TDCJ employees or offenders.

“Sexual Assault” is any act constituting a sexual assault or aggravated sexual assault as described in Texas Penal Code §§ 22.011 and 22.021.

“Sexual Contact” is the touching of the anus, breast, or any part of the genitals of another person with the intent to arouse or gratify the sexual desire of any person as defined in Texas Penal Code § 21.01 (2).

“Staff Sexual Misconduct,” for the purpose of this directive, is any act by an employee or other individual that is directed toward an incarcerated offender that includes the act constituting Improper Sexual Activity With Person In Custody as defined in Texas Penal Code § 39.04.

## **PROCEDURES:**

### **I. Contacting the PREA Ombudsman**

#### **A. Offenders**

The following information shall be posted at each correctional facility and made available to the offender population:

1. Information regarding the responsibilities and authority of the PREA ombudsman;
2. Information on contacting the PREA ombudsman;
3. A statement informing that an offender may confidentially contact the PREA ombudsman in writing regarding an allegation of sexual assault, sexual contact, or staff sexual misconduct; and

4. A statement informing that an offender reporting an allegation of sexual assault, sexual contact, or staff sexual misconduct to the PREA ombudsman will not be subject to reprisal.

B. Public

The name, mailing address, and phone number to be used for the purpose of directing inquiries and complaints to the PREA ombudsman shall be available on the TDCJ website.

II. Reporting and Resolution of PREA Inquiries or Complaints

- A. Any TDCJ employee or agent who receives a PREA inquiry or complaint shall forward it to the OIG and the PREA ombudsman for investigation.

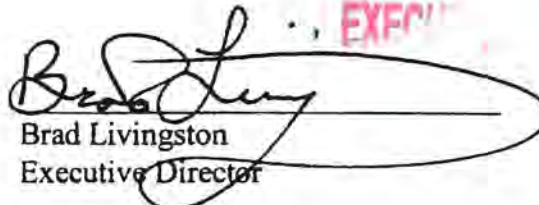
1. If a PREA complaint is reported at a correctional facility, the warden or designee shall process the complaint in compliance with the TDCJ Safe Prisons Plan and AD-02.15, "Operations of the Emergency Action Center and Reporting Procedures for Serious or Unusual Incidents." Upon receiving the initial report from the warden or designee, the Emergency Action Center (EAC) shall immediately forward the report to the PREA ombudsman.

2. If a PREA inquiry is received at a correctional facility, the warden or designee shall attempt to resolve the inquirer's concerns. If the concerns cannot be resolved by the facility administrator, the administrator shall refer the information to the PREA ombudsman office for response.

- B. If the complaint or inquiry does not pertain to an allegation of sexual assault, sexual contact, staff sexual misconduct, or TDCJ initiatives concerning the PREA, the PREA ombudsman office staff shall forward it to the ARRM division for resolution.

- C. Resolution of PREA complaints or inquiries may require the PREA ombudsman to request a response from various proponents. The proponent shall forward the completed PREA Ombudsman Inquiry Response Form (Attachment A), along with supporting documents, to the PREA ombudsman, who shall respond to the complainant.

OFFICE OF THE  
EXECUTIVE DIRECTOR



Brad Livingston  
Executive Director



## PREA Ombudsman Inquiry Response Form

*Instructions: Complete each section of the form. Section IV must include a detailed summary of the investigation and pertain only to the specific inquiry. If additional space is required for the summary, an interoffice communication (IOC) shall be attached and "See Attached IOC" noted in Section IV. Support documentation, such as the offender protection investigation (OPI), offender or employee statements, and Emergency Action Center (EAC) incident reports must be included in the response. The warden, assistant warden, or department head must sign the completed document prior to submission to the PREA ombudsman office. Upon completion, the response document and support documentation shall be faxed to the PREA ombudsman office. If a fax exceeds 100 pages, contact the PREA ombudsman office for instructions on forwarding the response. The original response and all Retention Schedule support documentation shall be retained at the correctional facility in accordance with TDCJ policy.*

Unit of Assignment/Department	Date Inquiry Received	Response Due Date
Offender Name (All or Assailant)	TDCJ Number	Alleged Offense/Level
Offender Name (All or Assailant)	TDCJ Number	Alleged Offense/Level
Employee Name (All or Assailant)	Unit/Title	Alleged Offense/Level

### SECTION I. SPECIFIC ALLEGATION

Type of Allegation. Mark box that most adequately describes the allegation.

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Sexual Assault - Staff    | <input type="checkbox"/> Sexual Contact - Staff    | <input type="checkbox"/> Staff Sexual Misconduct |
| <input checked="" type="checkbox"/> Sexual Assault - Offender | <input type="checkbox"/> Sexual Contact - Offender | <input type="checkbox"/> Other: (be specific)    |

### SECTION II. PRIOR UNIT ACTIONS

Indicate if any of the following were used during the investigation of this inquiry:

- |   |  |   |  |
|---|--|---|--|
| A. Family Liaison Contact                                       | <input type="checkbox"/> No              | <input type="checkbox"/> Yes                        | Contact Date: _____                            |
| B. Unit Level Investigations                                    | <input type="checkbox"/> No              | <input type="checkbox"/> Yes                        |  |
| <input type="checkbox"/> EAC Incident Report                    | <input type="checkbox"/> No              | <input type="checkbox"/> Yes                        | Date: _____ EAC #: _____                       |
| <input type="checkbox"/> Administrative Review                  | <input type="checkbox"/> No              | <input type="checkbox"/> Yes                        | Date: _____ EAC #: _____                       |
| <input type="checkbox"/> Offender Grievance                     | <input type="checkbox"/> No              | <input type="checkbox"/> Yes                        | Date: _____ Grievance #: _____                 |
| <input type="checkbox"/> Offender Disciplinary                  | <input type="checkbox"/> No              | <input type="checkbox"/> Yes                        | Date: _____ Disc. #: _____                     |
| <input type="checkbox"/> OPI                                    | <input type="checkbox"/> No              | <input type="checkbox"/> Yes                        | Date: _____                                    |
| OPI Disposition:  | <input type="checkbox"/> Unsubstantiated | <input type="checkbox"/> Substantiated              | <input type="checkbox"/> Unfounded             |
| <input type="checkbox"/> Unit Classification Committee Decision | <input type="checkbox"/> Housing Change  | <input type="checkbox"/> Job Change                 | <input type="checkbox"/> Unit Transfer         |
|   | <input type="checkbox"/> Safekeeping     | <input type="checkbox"/> Ad Seg./Protective Custody | <input type="checkbox"/> Remain Current Status |

Justification for recommended decision by UCC:

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> State Classification Committee Decision           |  |   |
| <input type="checkbox"/> Alleged Staff Misconduct Investigation (ASMI)     | <input type="checkbox"/> No <input type="checkbox"/> Yes | Date: _____ <input type="checkbox"/> Denied <input type="checkbox"/> Approved |
| <input type="checkbox"/> Use of Force (UOF)                                | <input type="checkbox"/> No <input type="checkbox"/> Yes | Date: _____ UOF #: _____  |
| <input type="checkbox"/> Referred to Office of the Inspector General (OIG) | <input type="checkbox"/> No <input type="checkbox"/> Yes | Date: _____ OIG Case #: _____   |
| <input type="checkbox"/> Other:  |  |   |

### SECTION III. OFFENDER AND STAFF INTERVIEWS

- |   |                                   |   |                              |  |
|---|-----------------------------------|---|------------------------------|--|
| Date of Alleged Offender Victim Interview: _____    | Were written statements obtained? | <input type="checkbox"/> No                 | <input type="checkbox"/> Yes |  |
| Date of Alleged Offender Assailant Interview: _____ | Were written statements obtained? | <input type="checkbox"/> No                 | <input type="checkbox"/> Yes |  |
| Date of Alleged Employee Assailant Interview: _____ | Were written statements obtained? | <input type="checkbox"/> No                 | <input type="checkbox"/> Yes |  |
| <b>Offender Witnesses</b>                           |                                   | <b>Employee Witnesses</b>                   |                              |  |
| _____ <input type="checkbox"/> Statement Obtained   | _____                             | <input type="checkbox"/> Statement Obtained |                              |  |
| _____ <input type="checkbox"/> Statement Obtained   | _____                             | <input type="checkbox"/> Statement Obtained |                              |  |
| _____ <input type="checkbox"/> Statement Obtained   | _____                             | <input type="checkbox"/> Statement Obtained |                              |  |
| _____ <input type="checkbox"/> Statement Obtained   | _____                             | <input type="checkbox"/> Statement Obtained |                              |  |

**SECTION IV: SUMMARY OF INVESTIGATION**

*Provide detailed summary of investigation. Be sure to address each issue.*

**SECTION V: REQUIRED SIGNATURES**

Prepared By:	Signature:	Rank/Title:	Date:
Approving Warden/Department Head:	Signature:	Rank/Title:	Date:

