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An Audit Report on the  
**Department of Criminal Justice's  
Complaint Resolution and  
Investigation Functions**

September 2008  
Report No. 09-004



An Audit Report on

# *The Department of Criminal Justice's Complaint Resolution and Investigation Functions*

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## *Overall Conclusion*

The Department of Criminal Justice (Department) substantially complies with its policies and procedures relating to investigating and resolving offender and employee grievances, investigating complaints, and processing allegations of policy violations and criminal behavior. The Department also conducted Offender Protection Investigations in accordance with its Safe Prisons Plan and ensured that offenders were safely housed.

Most of the related programs that auditors reviewed had adequate policies and procedures, and the Department substantially complied with required timeframes for processing complaints, grievances, and inquiries. However, the Department could improve documentation and review controls to ensure that (1) data entered into automated systems is accurate, (2) offenders are aware of current program updates and revisions, and (3) complaints and inquiries that are referred to other divisions or prison units and state jails are properly tracked.

The Department's Offender Grievance Program, Health Services Division, Office of the Inspector General (OIG), Safe Prisons Program, Ombudsman Program, and Human Resources Division coordinate their activities to resolve allegations, complaints, and grievances. Department divisions and the OIG also made appropriate referrals to properly address complaints and grievances. However, the Department could strengthen certain coordination activities between its divisions and the OIG.

Auditors administered 1,641 surveys to offenders incarcerated at seven state-operated or privately operated prison units and state jails (units). Results indicate that offenders are not always aware of the offender grievance process and are concerned about issues such as retaliation and the appearance that grievance staff

### **Background Information**

At the end of fiscal year 2007, 139,577 offenders were incarcerated in 101 Department facilities, and 16,074 offenders were incarcerated in 20 private facilities. The Department was authorized to have 39,030 full-time equivalent employees for fiscal year 2008. During fiscal year 2007 and the first half of fiscal year 2008:

- The Offender Grievance Program processed 376,421 grievances.
- The Health Services Division processed 46,492 offender medical grievances and 12,364 Patient Liaison Program complaints.
- The Office of the Inspector General opened 7,186 criminal, administrative, and informational cases.
- The Safe Prisons Program conducted 34,436 offender protection investigations.
- The Ombudsman Program processed 31,071 complaints and inquiries.
- The Human Resources Division processed 1,492 employee grievances and 1,120 Equal Employment Opportunity complaints.

*This audit was conducted in accordance with Texas Government Code, Sections 321.0132 and 321.0134.*

*For more information regarding this report, please contact Anita D'Souza, Audit Manager, or John Keel, State Auditor, at (512) 936-9500.*

members lack objectivity and independence. Also, survey results indicate that the Department's efforts to increase awareness of the Safe Prisons Program have been effective; however, improvements are needed to increase offenders' awareness about how to access the OIG and how to file a complaint about medical services.

Auditors also administered 673 surveys about the employee complaint and grievance process to Department employees at prison units and state jails, parole offices, and other Department offices. These survey results indicate that a majority of Department employees are aware of the complaint and grievance processes and how to obtain assistance from human resources staff.

Auditors also communicated other, less significant issues to the Department in writing.

### ***Summary of Management's Response***

The Department agrees with the recommendations in this report. Detailed responses are included in the Detailed Results section of this report.

### ***Summary of Information Technology Review***

The Department has adequate general information technology controls and application controls over three computer systems. However, the Department could make improvements to ensure the integrity and security of system data. Auditors identified opportunities for improvement in the areas of data integrity and management of data that is extracted from the systems.

### ***Summary of Objectives, Scope, and Methodology***

The objectives of the audit were to:

- Determine whether the Department is complying with policies and procedures and best practices governing the screening, investigation, and resolution of allegations of criminal behavior, serious policy violations, and serious offender and employee grievances.
- Determine whether the OIG, Office of the Ombudsman, Offender Grievance Program, Human Resources Division, and other areas of the Department effectively coordinate their activities to resolve complaints and allegations of criminal behavior, serious policy violations, and serious offender and employee grievances.

The scope of the audit included reviewing and analyzing data from September 2006 through February 2008 for Department programs and information systems relating to offender and employee grievances, third-party inquiries and complaints, and investigations. In addition, auditors administered surveys to 1,641 offenders and

673 employees at seven units, as well as at parole offices and other Department offices.

The audit methodology included collecting information and documentation, performing selected tests and procedures, analyzing and evaluating the results of tests, conducting interviews with staff at the Department, and administering offender and employee surveys.

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# Detailed Results

## Chapter 1

### ***The Department's Investigations of Offender and Employee Grievances Substantially Complies with Policies and Procedures; However, the Department Could Strengthen Documentation and Review Controls***

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The Department of Criminal Justice (Department) substantially complies with its policies and procedures for screening, investigating, and resolving complaints and grievances. Most of the related programs that auditors reviewed had adequate policies and procedures, and the Department substantially complied with required timeframes to process the complaints, grievances, and inquiries. The Department should strengthen documentation and review controls over its investigations to ensure that (1) data entered into automated systems is accurate, (2) offenders are aware of current program updates and revisions, and (3) complaints and inquiries that are referred to other divisions or prison units and state jails are properly tracked.

#### Chapter 1-A

### **The Department's Offender Grievance Program Ensures Its Staff Substantially Complied with Policies and Procedures for Screening, Investigating, and Resolving Offender Grievances**

#### **Offender Grievance Program**

Offenders use a two-step process to resolve issues or concerns that arise inside a prison unit or state jail (unit). Offenders submit grievance forms via grievance boxes or directly to unit grievance staff. Unit grievance staff screen, investigate, or refer the grievance and formally respond to the offender on the original grievance form. If an offender wants to appeal the response, he or she submits an appeal to the unit grievance staff, who forward the appeal to the Central Grievance Office for processing.

The Offender Grievance Program (Program) substantially complied with policies and procedures for screening, investigating, and resolving grievances and grievance appeals of offenders in prison units or state jails (units). In addition, the Program substantially complied with time frames established by Department policy. However, the Division should improve its controls relating to documentation of offender grievance files and the completeness of grievance investigations and responses. The Program processed 376,421 grievances from September 1, 2006, through February 29, 2008 (see Table 1 on next page).

Table 1

Offender Grievances Processed by the Program September 1, 2006, through February 29, 2008			
Type of Grievance	Fiscal Year 2007	September 1, 2007 through February 29, 2008	Total
Unit-level Offender Grievances	219,386	100,423	319,809
Offender Grievance Appeals	37,196	19,416	56,612
<b>Totals</b>	<b>256,582</b>	<b>119,839</b>	<b>376,421</b>

Source: Offender Grievance Case Tracking System.

Auditors conducted testing of 376 offender grievances at 7 units and 80 grievance appeals and determined that grievance investigators (1) correctly filled out unit-level grievance forms, (2) appropriately assigned issue and outcome codes, (3) ensured that grievances were signed by appropriate personnel, and (4) documented extensions for unit-level grievances in accordance with the Department's *Offender Grievance Operations Manual*. Grievance investigations also were properly documented using the Program's investigation worksheet. In addition:

- Five of six (83 percent) offender grievances and appeals reviewed that mentioned a grievance investigator were processed by an alternate grievance investigator.
- All 376 offender grievances reviewed and 77 of 80 (96 percent) of grievance appeals reviewed were completed and responded to within the time frames established by the Department.
- All 13 offender grievances reviewed relating to either a sexual assault or sexual abuse were handled appropriately and in accordance with the Department's Safe Prisons Plan (see Chapter 1-D for more information on the Safe Prisons Plan).

Auditors surveyed offenders at seven units. Seventy-three percent of the offenders responding said they knew how to access Program grievance forms, and 57 percent said they knew how to access Program policies (see Table 3 on page 5). Other results included:

- 52 percent stated they were not afraid to file grievances.
- 55 percent of offenders responding stated they were not told about the grievance system.
- 78 percent said they did not trust the grievance investigators.

### Screening Criteria

The Program has 11 screening criteria that may be used by Unit Grievance Investigators for offender grievances, and 6 screening criteria for appealed grievances. These criteria were established to limit the number of frivolous complaints and to teach offenders to use the Program responsibly. The Program does not investigate or respond to grievances that are screened out.

Source: *Offender Grievance Operations Manual*.

- 78 percent stated that the grievance system does not work.

The Program took corrective action in 13 percent of all offender grievances and appeals, and it determined that no further investigation was warranted in 64 percent of grievances and appeals (see Table 2). Unit Grievance Investigators screened out (returned for correction or resubmission) 22 percent of the unit-level and appealed grievances from September 1, 2006, through February 29, 2008 (see text box for more information on screening criteria).

Table 2

Grievance Outcomes for Offender Grievances and Appeals Filed September 1, 2006, through February 29, 2008			
Outcome Code Used <sup>a</sup>	Number of Grievances <sup>d</sup>	Percent of Grievances/Appeals Receiving Code	Definition
D	242,029	64%	Determined no further investigation was warranted (investigated and returned to the offender).
H	82,327	22%	Grievance screened/returned to the offender for correction and re-submission.
R	30,150	8%	Resolved with some action taken. (The Department changed policies or procedures, corrected offender records, returned offender property, or took other corrective action.)
S <sup>b</sup>	17,610	5%	Resolved through the grievance process with some action taken.
X <sup>b</sup>	2,369	1%	Voluntary withdrawal of grievance by the offender.
U	1,034	0%	Grievance included with a use of force report.
T	470	0%	Referred to the Office of the Inspector General (OIG) for appropriate action.
C	178	0%	Administratively closed.
P <sup>b</sup>	93	0%	Property issues.
<b>Totals</b>	<b>376,260 <sup>c</sup></b>	<b>100%</b>	

<sup>a</sup> Grievances investigators use these codes to close grievances based on the results of an investigation.  
<sup>b</sup> The Program no longer used these outcome codes after August 31, 2007.  
<sup>c</sup> Auditors identified an additional 21 grievance records that were incorrectly assigned Ombudsman Program outcome codes.  
<sup>d</sup> The number of grievances that are closed is lower than the number of grievances opened (processed) in Table 1.

Sources: Offender Grievance Case Tracking System and *Offender Grievance Operations Manual*.



The Program has extensive policies and procedures related to establishing an offender grievance process; however, it does not ensure that grievance staff is consistently trained.

**Texas Government Code,  
Section 501.008**

“The Department shall develop and maintain a system for the resolution of grievances by inmates housed in facilities operated by the Department or under contract with the Department that qualifies for certification under Title 42, United States Code, Section 1997e, and the Department shall obtain and maintain certification under that section.”

In accordance with the Texas Government Code (see text box), the Department has extensive policies and procedures clearly defining what an offender grievance is and providing guidelines for how these grievances should be processed. In addition, the Program established the *Offender Grievance Operations Manual*, which provides guidelines for collecting, screening, investigating, documenting, responding to, and closing offender grievances. However, the Program does not ensure that unit-level grievance staff receive consistent training on the grievance process.

**Structure of Offender  
Grievance Program**

The Program is comprised of three levels of staff: (1) central grievance staff, (2) regional grievance staff, and (3) unit grievance staff. Staff in the Central Grievance Office address grievance appeals. Regional grievance staff members are available to assist unit grievance staff and address some grievance appeals. Unit grievance staff process unit-level grievances and forward appeals to the Central Grievance Office.

At all units auditors visited, new grievance staff were trained by the unit’s existing grievance staff, even though the *Offender Grievance Operations Manual* states that regional supervisors are responsible for new employee training (see text box for structure of grievance staff). In addition, Unit Grievance Investigators attend quarterly regional training and electronically receive Program updates. While some Unit Grievance Investigators mentioned other training opportunities, their responses were inconsistent and some Unit Grievance Investigators were not aware of recent changes in the Safe Prisons Program. Without consistent training, there is an increased risk that grievance staff will not appropriately process offender grievances in accordance with Department policies and procedures.

The Program ensures that offenders have appropriate access to the grievance process; however, it does not ensure that all Program information is current and available to offenders through various avenues.

Offenders at the seven units that auditors visited have access to grievance forms in both English and Spanish. Each unit also had an appropriate number of grievance boxes and adequately posted grievance instructions in prominent locations, as required by Department procedures. All seven unit’s law libraries also contained copies of all Department policies required to be available for review by offenders. Although not required, the law libraries also had older versions of the *Offender Grievance Operations Manual*, which could help offenders better understand the grievance process.

Upon arriving at the unit, offenders are given information about the Program during an orientation session. This information is presented either through a unit-specific orientation packet<sup>1</sup>, a *Department Offender Orientation Handbook*, a Department-produced video, or a combination of these resources. However, the Department’s and unit’s handbooks that auditors reviewed contained inconsistent information about the Program. Some

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<sup>1</sup> Not every unit has its own unit-specific orientation packet.

handbooks inform offenders that they are able to withdraw a grievance after submission, even though, as of September 1, 2007, offenders are no longer able to withdraw a grievance. In addition, the handbooks may not be useful for illiterate offenders or non-English or non-Spanish speaking offenders.

**2008 State Auditor's Office  
Survey of Offenders**

Auditors surveyed 1,641 offenders at 7 units about the Program. The survey asked offenders to rate their level of agreement or disagreement with 19 survey statements.

Offenders also were given the opportunity to provide additional comments regarding the grievance process. A total of 790 offenders (48 percent of respondents) provided comments regarding the grievance process and other topics.

(See Appendix 2 for more information on survey responses.)

While auditors determined that offenders have appropriate access to the Program information, 55 percent of offenders responding to an auditor-conducted survey stated they were not told how the grievance system works, and 16 percent stated they did not know how to access the grievance forms (see text box for background information on the survey and Table 3 for selected survey results). Four percent (30 of 790) of survey comments said offenders had to learn about the grievance process from other offenders or were not able to understand the process due to illiteracy or other language-related obstacles. Seventy-nine percent of offenders surveyed also disagreed that unit staff, when asked, would help the offenders complete a grievance form, even though Department procedures state that "assistance [completing the form] may be sought from an employee."

In addition, survey responses indicate that offenders feel that the grievance system does not work and that Department management does not take immediate action to address safety and welfare concerns of offenders.

Table 3

Survey Results Related to Offenders' Awareness and Perceived Accessibility of Grievance Process				
Survey Statement	Respondents Who Agreed with Survey Statement <sup>a</sup>	Respondents Who Were Neutral about Survey Statement	Respondents Who Disagreed with Survey Statement <sup>b</sup>	Survey Statement Not Applicable to Respondent
1. I was told how the grievance system works at the Department of Criminal Justice.	32%	7%	55%	6%
2. I know where to access the offender grievance policies. <sup>c</sup>	57%	7%	32%	5%
3. I can file a grievance when needed.	65%	7%	26%	2%
5. If I want to file a grievance, I know how to access the grievance form.	73%	7%	16%	4%
6. If I ask, staff will help me complete my grievance.	8%	8%	79%	5%
9. I know how to file an appeal if I am not satisfied with the outcome.	49%	8%	36%	7%
10. I always get to keep a copy of my grievance form.	45%	8%	35%	12%
13. I feel the grievance system works in the Department of Criminal Justice.	9%	9%	78%	4%

**Survey Results Related to Offenders' Awareness and Perceived Accessibility of Grievance Process**

Survey Statement	Respondents Who Agreed with Survey Statement <sup>a</sup>	Respondents Who Were Neutral about Survey Statement	Respondents Who Disagreed with Survey Statement <sup>b</sup>	Survey Statement Not Applicable to Respondent
19. The Department of Criminal Justice's management takes immediate action to address safety and welfare concerns of offenders. <sup>c</sup>	13%	12%	71%	3%

<sup>a</sup> Respondents who agreed or strongly agreed with an individual survey statement were grouped together in the "Agree" column.

<sup>b</sup> Respondents who disagreed or strongly disagreed with an individual survey statement were grouped together in the "Disagree" column.

<sup>c</sup> The percentages do not all sum to 100 percent due to rounding.

**The Program should ensure that unit grievance employees maintain the confidentiality of grievances and the appearance of objectivity and independence to improve offender confidence in and perception of the Program.**

Although Program staff substantially complied with Department policies and procedures, offender survey results indicate that offenders have some concerns regarding (1) the independence and trustworthiness of Unit Grievance Investigators, (2) retaliation from staff for filing a grievance, and (3) the confidentiality of grievances. Specifically:

- Fourteen percent (107 of 790) of survey comments related to a perception of grievance staff members' bias or lack of independence.
- Fifty-three of 56 (95 percent) grievances reviewed at 1 unit were appropriately forwarded. The remaining 3 (5 percent) grievances were forwarded in their entirety to the unit chaplain, the law library, or to a correctional officer. According to Program procedures, the grievance investigator should have provided only a summary of the grievance to the investigating authority. If grievance investigators do not take appropriate steps to protect the confidentiality of grievance information, offenders may perceive the process as untrustworthy, as indicated by the fact that 4 percent (33 of 790) of survey comments said correctional staff had viewed confidential grievance forms or referred to other confidentiality concerns.
- Fifty-two percent of survey respondents stated they were not afraid to file grievances; however, 78 percent disagreed that they could trust their Unit Grievance Investigator(s) (see Table 4 on the next page). In addition, 32 percent (252 of 790) of survey comments referred to having a fear of retaliation from staff.

Table 4

Survey Results Related to Offenders' Awareness and Perceived Accessibility of Grievance Process				
Survey Statement	Respondents Who Agreed with Survey Statement <sup>a</sup>	Respondents Who Were Neutral about Survey Statement	Respondents Who Disagreed with Survey Statement <sup>b</sup>	Survey Statement Not Applicable to Respondent
4. I am not afraid to file a grievance.	52%	9%	35%	4%
7. I feel that grievances are screened properly by the Unit Grievance Investigator.	10%	8%	77%	5%
8. After filing a grievance, I always get a response.	41%	11%	37%	11%
11. I trust the Unit Grievance Investigator(s) at this facility. <sup>c</sup>	7%	10%	78%	6%
12. Staff has never retaliated against me for filing a grievance.	16%	11%	62%	11%
<p><sup>a</sup> Respondents who agreed or strongly agreed with an individual survey statement were grouped together in the "Agree" column.</p> <p><sup>b</sup> Respondents who disagreed or strongly disagreed with an individual survey statement were grouped together in the "Disagree" column.</p> <p><sup>c</sup> The percentages do not all sum to 100 percent due to rounding.</p>				

Department and Program management should ensure the following to increase offender confidence in the Program:

- Ensure that grievance staff gathers and retains evidence from all possible sources in the grievance file. Although 305 of 326 (94 percent) offender grievances tested received a thorough investigation, a minimal amount of supporting documentation and investigative evidence was retained in the grievance files. Some grievance files contained only a statement from the offender and a statement from a Department staff member, usually a correctional officer. In a majority of these cases, the Unit Grievance Investigator concluded there was insufficient evidence to substantiate the offender's allegations. Eleven percent of offender survey comments responded that grievance investigations were ineffective because they usually resulted in an officer's statement against an offender's statement.
- Ensure that grievance staff identify Department employees who are consistently the subject of offender grievances and report trends to unit management. Twenty-five percent of the issue codes used most often by grievance investigators to classify grievances relate to a complaint made against Department staff (see Table 5 on next page). Although they are not required to do so, unit grievance staff have the ability to generate reports from the Offender Grievance Case Tracking System to identify which staff have been mentioned in offender grievances and how many times that individual has been a party to a grievance.

Table 5

Grievance Issue Codes Used Most Often by Grievance Investigators September 1, 2006, through February 29, 2008			
Issue Code Used	Number of Grievances	Percent of Grievances	Definition
815	30,020	8%	Unprofessional staff conduct.
899	27,739	8%	Staff complaint grievance that has been screened out.
814	21,245	6%	Allegation of staff denial/Interference with an activity (such as recreation or showers).
599	19,672	5%	Facility operations grievance that has been screened out.
499	15,438	4%	Disciplinary grievance that has been screened out.
401	13,434	4%	Improperly charged (Disciplinary Case).
810	12,664	3%	Allegations of staff use of profanity/epithets/taunting/badgering/intimidation.
515	12,260	3%	Property lost/missing/damaged/stolen.
500	9,217	3%	Food services issues.
512	8,510	2%	Confiscated/contraband property.
509	7,580	2%	Recreation (offenders denied recreation by staff or other factors prevent access to recreation).

Source: Offender Grievance Case Tracking System.

- Ensure that grievance staff provide offenders with reasonably detailed responses. Most of the responses to grievances reviewed by auditors were general and contained few details about the investigation and conclusion. While standardized responses may not be a Program deficiency and could be used to increase Program efficiency, including specific details about the offender's grievance could help promote the credibility of the grievance program among offenders. Sixteen percent of offender survey comments were critical that offenders seemed to receive the same, standardized response from grievance investigators.
- Ensure that grievance staff are aware of their level of professionalism and perceived objectivity while in the presence of offenders. At some units, auditors observed grievance staff engaging in casual conversations with members of the correctional staff while in the presence of offenders. While this may not be inappropriate, grievance staff should try to avoid actions that may lead offenders to perceive that the grievance investigators are not independent and objective.

The Program should improve notification of unit personnel and documentation of grievance extensions in its grievance files and automated grievance system.

Grievance investigators did not consistently notify the correct unit personnel about grievances that alleged an emergency situation exists. Specifically:

- Four of 21 (19 percent) grievances tested in which an offender claimed a life endangerment situation lacked documentation showing that the appropriate unit personnel were notified as required by the Department's

#### Notifications to Unit Personnel

If an offender claims his or her life is endangered from another offender, the Unit Grievance Investigator is required to immediately notify the Unit Chief of Classification and the Unit Major via e-mail, followed by a telephone call to the highest ranking security supervisor on duty. If an offender claims his or her life is endangered from staff, the Unit Grievance Investigator is required to immediately notify the Unit Warden and the highest ranking security supervisor on duty using the same notification process.

Source: *Offender Grievance Operations Manual*.

*Offender Grievance Operations Manual* (see text box for notification requirements).

- One of two (50 percent) appealed grievances alleging that an offender was in fear of life endangerment from staff tested lacked documentation that the warden was notified.
- In one of two (50 percent) unit-level grievances tested in which the offender claimed he was a victim of extortion, the Unit Grievance Investigator did not coordinate the investigation with the Unit Extortion Officer in accordance with Program procedures.

Although some unit personnel were notified by grievance investigators for the grievances discussed above, Unit Wardens should be notified in accordance with Department policies and procedures to ensure they are aware of emergency situations on the unit and that appropriate actions are taken.

#### Grievance Categories and Timeframes

Grievances are classified in one of three categories:

- **Emergency:** Life endangerment situations, requests for protection, sexual assault, sexual abuse, extortion, and medical-related allegations.
- **Specialty:** American with Disabilities Act issues, preferential treatment, non-emergency medical, religion, and discrimination based on gender or nationality.
- **Regular:** Classification matters, communication, disciplinary, facility operations, legal, staff complaints, and other miscellaneous issues.

Unit Grievance Investigators have 40 days to investigate and respond to offender grievances. The Department (Central Grievance Office) has 35 days in which to investigate and respond to offender grievance appeals. An extension may be filed by grievance investigators for the same number of original days. Grievances related to disciplinary cases must be addressed within 30 days, and they are not eligible for an extension.

Source: *Offender Grievance Operations Manual*.

In addition, grievance investigators did not consistently notify offenders that it would take longer than the required time frames to address their grievance. If grievance staff do not send offenders extension notifications, as required by Department policy, offenders may conclude that their grievances were ignored (see text box for grievance categories and timeframes). Specifically:

- Twelve of 13 (92 percent) applicable unit-level grievance files had a documented extension form.
- Twenty-one of 23 (91 percent) applicable grievance appeal files had a documented extension form.
- Seven of 23 (30 percent) grievance appeal extensions reviewed were not properly documented in the comments section of the Offender Grievance Case Tracking System (Grievance System). The *Offender Grievance Operations Manual* states that extensions are to be documented in the Grievance System's comments field by including the initials of the individual authorizing the extension. In all seven

cases, the initials were not documented as required. If grievance extensions are not properly documented, the Department cannot monitor who granted the extension.

The Program could improve controls to ensure that grievance data is accurate and secure.

The Department has adequate information technology controls over its Offender Grievance Case Tracking System (Grievance System) to control

access to the mainframe system and to manage its data (see text box). However, the Department could improve some controls to better ensure the integrity of system data.

#### Offender Grievance Case Tracking System

The Department uses the Offender Grievance Tracking System (Grievance System) to document and track offender grievances. The Grievance System allows users to quickly view grievance history and generate reports to identify trends, such as repeated grievance issues or staff involvement. The following employees have access to the Grievance System:

- Unit, regional, and central grievance office staff.
- Unit Wardens, regional staff, and department heads.
- Administrative Review and Risk Management Division staff.
- Health Services Division staff.
- Office of the Inspector General staff.
- Any other Department employee by request.

Program staff use data extracted from the Grievance System for analysis and reporting because it is easier to perform analysis using other software, such as Microsoft Excel and Access, than it is to use the Grievance System. Program staff extract data for analysis because the Grievance System does not contain the functionality to provide all needed reports and conduct analysis. The risk of data errors increases if the data is changed outside of the automated Grievance System controls. In addition, a number of technical support staff and contractors have unnecessary access to Grievance System data, which increases the risk of unauthorized changes made to the data. However, requests to improve the Grievance System are a low priority for the Department's Information Technology Division.

In addition, the Grievance System does not allow for the efficient tracking of grievance due dates. The Grievance System automatically calculates due dates—40 days for unit level grievances and 35 days for grievance appeals. It does not, however, calculate accurate due dates for disciplinary-related grievances, which must be investigated and resolved within 30 days. Also, the Grievance System does not update the due date if an extension has been filed. Grievance staff must manually insert the correct due date in a comment field. However, this field is not used to generate an "Overdue Report," which lists all outstanding grievances. As a result, grievance staff must conduct a time-consuming review of the report to determine which grievances are overdue and which have been granted an extension.

The Program does not consistently ensure that accurate outcome codes are entered into the Grievance System. Auditors identified 21 grievance records that were incorrectly closed using an Ombudsman Program outcome code; an Offender Grievance Program outcome code should have been used.

## Recommendations

The Department should:

- Ensure that new and current grievance staff are adequately trained in accordance with Department policies and procedures.
- Ensure that units provide offenders with current Program information and consider using additional avenues to promote Program awareness among offenders.
- Ensure that the appropriate unit personnel are notified in accordance with policies and procedures for all grievances containing allegations of life endangerment or emergency situations.
- Ensure that grievance staff enter extension data into the Offender Grievance Case Tracking System in accordance with Program policies and procedures.
- Minimize the need for users to extract data from the Offender Grievance Case Tracking System and to perform their work outside of the system controls, and develop compensating controls to ensure that extracted data is reliable and secure.
- Limit the number of technical support accounts.
- Ensure that the Information Technology Division prioritizes enhancements of the Offender Grievance Case Tracking System so that user requests to strengthen necessary controls are completed in a timely manner.
- Consider updating the Offender Grievance Case Tracking System to automatically calculate a 30-day due date for disciplinary grievances and to recalculate a new due date for grievances that have had extensions filed.
- Ensure that grievance records are closed using the accurate outcome codes.

## Management's Response

*The Department should ensure that new and current grievance staff are adequately trained in accordance with Department policies and procedures.*

*TDCJ agrees. The Offender Grievance Operations Manual will be updated to reflect that all grievance staff are to be trained within 30 days of their effective hire date and a 'New Employee Training Verification of Training' form will be completed and signed. Regional Grievance Supervisors will train new Unit Grievance Investigator (UGI) III's and II's; and, when appropriate,*



will allow delegation to the UGI III or II to train other staff. In addition, Regional Grievance Supervisors will ensure adequate training was provided, and will provide additional training, when appropriate.

The Department should ensure that units provide offenders with current Program information and consider using additional avenues to promote Program awareness among offenders.

TDCJ agrees. The Offender Orientation Handbook is being revised to reflect current information which includes the offender grievance procedure. The Administrator of Offender Grievance will instruct Unit grievance staff to make themselves available to the offender population during mass movement, such as meal times, in order to answer questions, resolve issues and distribute grievance forms if needed. Additional efforts, including publishing a notice in the offender newspaper 'The Echo' and posting the notice at each unit in the Law Library and in the housing areas, will be made to provide current information and to enhance awareness of the grievance program.

The Department should ensure that the appropriate unit personnel are notified in accordance with policies and procedures for all grievances containing allegations of life endangerment or emergency situations.

TDCJ agrees. The instructions for notifying the appropriate personnel regarding allegations of life endangerment or emergency situations will continue to be provided to grievance staff in Chapter IV "Processing Step I Grievances" of the Offender Grievance Operations Manual. Training regarding the notification process for allegations of life endangerment or emergency situations will be provided by the Central Grievance Office staff in regional bi-annual trainings.

The Department should ensure that grievance staff enter extension data into the Offender Grievance Case Tracking System in accordance with Program policies and procedures.

TDCJ agrees. The Information Technology Division will update the Offender Grievance Case Tracking System (GR00) by adding a 'date of extension' field. This enhancement should reduce staff entry errors, allow for retrieval of all grievances that have been extended and assist administration in determining whether extensions are applied appropriately.

The Department should minimize the need for users to extract data from the Offender Grievance Case Tracking System and to perform their work outside of the System controls, and develop compensating controls to ensure that extracted data is reliable and secure.

TDCJ agrees. The Information Technology Division and Central Grievance Office will determine what information is extracted and corrected each month and then create a mainframe screen for making corrections to the system.

The Department should limit the number of technical support accounts.

TDCJ agrees. The Information Technology Division will identify who has access to the Offender Grievance Case Tracking System (GR00) and as appropriate revoke their access.

The Department should ensure that the Information Technology Division prioritizes enhancements of the Offender Grievance Case Tracking System so that user requests to strengthen necessary controls are completed in a timely manner.

TDCJ agrees. The Information Technology Division will coordinate with Agency Executive Management to ensure the enhancements to the Offender Grievance Case Tracking System are appropriately prioritized.

The Department should consider updating the Offender Grievance Case Tracking System to automatically calculate a 30-day due date for disciplinary grievances and to recalculate a new due date for grievances that have had extensions filed.

TDCJ agrees. This capability is currently being analyzed and as appropriate the Information Technology Division will modify the system.

The Department should ensure that grievance records are closed using the accurate outcome codes.

TDCJ agrees. The grievance system outcome codes were updated November 2007 to reflect the following 'active' outcome codes listed in the Offender Grievance Operations Manual: C, D, H, R, T & U. These are the only outcome codes that can now be entered into system. The 21 grievances referenced in the audit were prior to this change. TDCJ Mainframe emails were forwarded to the affected units for the 21 grievances on September 4, 2008. Grievance staff was instructed to pull the respective grievance from the offender's file, review the response provided and correct the outcome code in the GR00 that matches the response. All corrections were completed on September 8, 2008.

## The Unit-level Medical Departments and the Health Services Division Substantially Comply with Policies and Procedures Relating to Medical Grievances, Inquiries, and Investigations

### Medical-related Offender Grievances

The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center provide medical services to offenders incarcerated in Department units. The Health Services (HS) Division's Office of Professional Standards provides guidance on processing offender complaints about medical services. However, the HS Division provides no oversight of the processing of medical grievances by the unit-level medical departments. The Offender Grievance Program oversees medical grievances.

Medical-related offender grievances include complaints relating to:

- Existence of or improper response to a medical emergency.
- Denial of medical treatment or medication.
- Conduct of medical personnel.
- Inadequate or ineffective medical treatment.
- Inadequate or ineffective dental care.
- Inadequate or ineffective psychiatric or psychological programs.
- Denial or improper dispensing of medication.

Unit-level medical staff substantially comply with policies and procedures that govern the investigation and resolution of offender grievances containing medical-related complaints (see text box for examples of complaints). However, unit-level medical staff should improve controls relating to investigation file supporting documentation and grievance signature authority.

The Health Services Division (HS Division) substantially complies with policies and procedures that govern the investigation and resolution of appeals for medical offender grievances and Patient Liaison Program inquiries. However, the HS Division should improve controls relating to investigation file supporting documentation and the entry of data into its automated system.

Unit-level medical staff and Unit Grievance Investigators investigated and resolved medical grievances in a timely manner.

The Department recorded 25,830 medical-related grievances filed by offenders in fiscal year 2007 and 11,345 medical-related grievances filed by offenders during the first half of fiscal year 2008. Auditors tested 188 medical grievance files and noted no significant errors. The Unit Grievance Investigators, in coordination with the unit-level medical departments, ensured that these 188 grievances (1) were delegated to the correct medical

personnel for investigation, (2) were processed using the correct forms, and (3) received timely responses that addressed the grievance complaints. They also ensured that investigation extensions were documented in accordance with Department policies and procedures.

Table 6 lists the number of medical-related offender grievances and appeals processed by the Department from September 1, 2006, through February 29, 2008.

Table 6

Medical-related Offender Grievances Filed in Fiscal Year 2007 and First Six Months of Fiscal Year 2008			
Type of Grievance	Fiscal Year 2007	September 1, 2007, to February 29, 2008	Total
Unit-level Medical Grievance	25,830	11,345	37,175
Appeals of Medical Grievance Response	5,751	3,566	9,317
<b>Total</b>	<b>31,581</b>	<b>14,911</b>	<b>46,492</b>

Source: Offender Grievance Tracking System.

Unit Grievance Investigators most often categorized medical-related offender grievances and appeals using issues codes related to medication issues, denial of access to medical treatment, ineffective or inadequate medical treatment, and improper processing of medical grievances (see Table 7).

Table 7

Medical Issue Codes Used Most Often for Medical-related Grievances and Appeals Fiscal Year 2007 and First Six Months of Fiscal Year 2008			
Number of Grievances	Percent of Total Medical Grievances	Issue Code Used	Issue Code Description
6,152	13%	621	Medication issues (denial or delay, dispensing issue, alternative medication dispensed or requested).
6,023	13%	611	Denial of access to medical care and services (refusal of treatment, denial or delay in medical treatment, canceled or missed appointment).
5,660	12%	623	Not satisfied with treatment (ineffective, inadequate, or insufficient treatment).
5,489	12%	699	Improper or unprocessed medical grievance (grievance was screened out and not investigated).
3,091	7%	601	Relating to conduct of medical personnel (physicians, nursing staff, dentists, psychologists, psychiatrists, physician assistants).
1,851	4%	642	Issues relating to medical co-payments.

Source: Offender Grievance Tracking System.

Unit Grievance Investigators and unit-level medical departments do not always ensure that medical grievance files consistently include documentation supporting the response.

Unit-level medical staff sufficiently documented the offenders' grievance and the steps taken to investigate complaints. However, the Unit Grievance Investigators and the unit-level medical staff did not consistently retain documentation to support responses to the grievances.

Auditors reviewed 187 medical-related grievances entered into the Offender Grievance Tracking System from September 1, 2006, through February 29, 2008. Of these, 174 files (93 percent) had sufficient documentation supporting the medical department's response to the grievance. Nine of the remaining 13 files lacked (1) supporting documentation from the pharmacy log for the medication ordered and dispensed to the offender, (2) documentation from medical records to show appointments scheduled for the offender, or (3) documentation of the department policy referred to in the grievance response as to why the offender did not meet criteria for psychological treatment.

Unit Grievance Investigators could not find 4 of the 13 grievance files, even though the offenders were still assigned to those units. Department policies and procedures require documentation to be obtained to support responses to offender grievances. This documentation may include copies from clinical records, logs, rosters, appointment books, and any written records that may document the provision of services. A lack of adequate supporting documentation (1) limits the Department's ability to ensure that responses to medical-related offender grievances are valid and (2) may expose the Department to increased risk during any subsequent grievances or litigation.

The Unit Grievance Investigators generally ensure that the investigation and response to medical-related grievances are reviewed; however, they could improve their processes to ensure that the reviews are conducted and documented by the appropriate supervisor.

Of the 187 medical-related grievances reviewed by auditors, 177 (95 percent) files contained sufficient documentation showing that the grievances had been reviewed by the unit's Practice Manager, Health Administrator, or District Practice Manager, as required by Department policies. Unit Grievance Investigators could not locate four grievance files, and three files contained medical grievances signed by an Administrative Associate, which does not comply with Department policy. Starting September 1, 2007, the signature authority for medical-related grievances changed from the Unit Warden to the Practice Manager or Health Administrator. The Administrative Associate who signed the three grievances reviewed is assigned to a unit that does not have an authorized Practice Manager or Health Administrator and was unaware of who should sign the grievances. The HS Division subsequently provided instructions stating that the District Practice Managers should sign the grievances in these situations. In addition, three files contained only a

signature stamp. While Department policy does not discuss the use of signature stamps, the use of the stamps without a corresponding personal signature does not provide assurance that the appropriate individual reviewed the file to ensure that the investigation and response to a grievance is sufficient and complies with Department policies.

#### Appeals of Medical Offender Grievances

Offenders can submit an appeal of a grievance response to their Unit Grievance Investigator, who forwards all appeals to the Central Grievance Office in Huntsville. Appeals of medical-related grievances are then forwarded to the HS Division's Office of Professional Standards for investigation and response. After the response is signed by the appropriate HS Division supervisor, the appeal is returned to the Central Grievance Office for administrative close-out and forwarding of the written response to the offender.

The HS Division investigates and resolves appeals of medical-related grievances in compliance with Department policies and procedures.

Auditors reviewed a sample of 60 medical grievance appeals processed between September 1, 2006, and February 29, 2008, and found that all (1) used the correct investigation forms, (2) were reviewed and signed by the appropriate HS Division supervisors, and (3) were processed within the required timeframes. In addition, 58 of 60 files (97 percent) files tested contained responses that addressed the grievance appeal complaints and included sufficient documentation supporting the HS Division's response to the appeal (see text box).

The HS Division investigates and resolves Patient Liaison Program inquiries in compliance with Department policies and procedures.

#### Patient Liaison Program

The Patient Liaison Program investigates inquiries from third parties regarding access to health care for offenders; offenders are not permitted to submit complaints directly to the Patient Liaison Program. The Patient Liaison Program investigates complaints of inappropriate health care delivery to determine whether the offender received access to medical services in a timely manner, whether the offender received access to a professional medical judgment, or whether services ordered by the providers have been available consistently and in a timely and effective manner. Complaints are not within the purview of the Patient Liaison Program.

The HS Division's Office of Professional Standards processed 12,364 Patient Liaison Program inquiries between September 1, 2006, and February 29, 2008:

- 8,135 inquiries in fiscal year 2007.
- 4,049 inquiries during the first six months of fiscal year 2008.

The inquiries include questions relating to offender medical treatment and requests for information (see text box). All 60 inquiry files reviewed by auditors were processed in a timely manner. Fifty-seven of 58 files (98 percent) contained responses that addressed the inquiries; 2 of the 60 inquiries did not require a response from the HS Division. In addition, all inquiry files reviewed by auditors that required a release form to be signed by the offenders contained evidence that the release was obtained.

The HS Division ensures that Patient Liaison Program inquiries are investigated thoroughly; however, it could improve its processes to ensure that inquiry files consistently include supporting documentation.

Forty-nine of 53 (92 percent) Patient Liaison Program inquiry files reviewed by auditors contained sufficient documentation to indicate that a thorough investigation was performed. Four inquiry files lacked documentation to support the inquiry response. The missing documentation included medical records to support treatment information listed in the response, telephone inquiry forms (which show the complaint information), and the offender

correspondence to the HS Division. The HS Division's *Patient Liaison Program Training Manual* states that the inquiry case packets should include all supporting documentation. This documentation may include medical records, interview write-ups, computer screen prints, and other records. A lack of adequate supporting documentation (1) limits the HS Division's ability to ensure that Patient Liaison Program responses to inquiries and complaints are valid and (2) may expose the Department to increased risk during any subsequent grievances or litigation.

The HS Division should improve its controls over the entering of inquiry case dates into its Patient Liaison Program database.

The HS Division's Office of Professional Standards (Office) uses the Patient Liaison Program database to track and maintain information about the Patient Liaison Program cases it receives, investigates, and closes. Office investigators and administrative staff have the capability to enter and edit data relating to inquiry content, date the inquiry was received, investigator information, response to the inquiry, and date the inquiry was closed. The database does not interface with other Department systems.

Auditors tested 60 Patient Liaison Program inquiry cases and identified one case in which the database contained a case open date that was after the case closed date. HS Division staff stated that the database does not have an edit control to prevent this type of error.

In addition, auditors analyzed all inquiry case information entered into the database from September 1, 2006, through February 29, 2008, and identified the following:

- 214 cases (in addition to the case noted above) listed a date the case was received that was after the date the case was closed.
- Four closed cases had no closed date listed.
- One case used a unit designation that was not included in the Department's unit code listing.

Office management confirmed the discrepancies in the data. While the number of inquiry cases with errors is not significant, errors in the database could affect the HS Division's use of the data for reporting and case performance evaluations.

## Recommendations

The Department should ensure:

- Unit medical employees retain adequate supporting documentation for responses to medical offender grievances in compliance with Department policies and procedures.
- Unit Grievance Investigators require that all supporting documentation be present before closing out a medical grievance.
- Unit Grievance Investigators retain all medical grievance documentation for offenders assigned to their units.
- Unit Grievance Investigators accept medical grievances signed by only authorized personnel and that grievances do not include a stamp as a signature.
- The HS Division maintains documentation to support the investigation and resolution of Patient Liaison Program inquiries.
- The HS Division implements controls over the data entry of case date information into the Patient Liaison Program database to prevent and detect errors.

## Management's Response

*The Department should ensure unit medical employees retain adequate support documentation for responses to medical offender grievances in compliance with Department policies and procedures.*

*TDCJ agrees. The unit-level grievance investigator, in conjunction with the Unit Health Administrator/Practice Manager will ensure that unit medical employees obtain and retain adequate support documentation for the responses to medical offender grievances. Training curriculum is being developed for annual training to unit medical providers on the processes required for documenting grievances.*

*The Department should ensure Unit Grievance Investigators require that all supporting documentation be present before closing out a medical grievance.*

*TDCJ agrees. The unit-level grievance investigator and the Unit Health Administrator/Practice Manager have been provided the Documents and Forms Required for Investigation of Medical Grievances form to record all supporting documentation utilized in the formulation of the unit-level Step 1 Medical Grievance response. The Unit Health Administrator/Practice Manager and unit-level grievance investigators will work together to ensure*



*that medical documentation as well as security statements are documented on the form and present in the Step 1 packet. Training curriculum is being developed for annual training to unit medical providers on the processes required for documenting Step 1 grievances.*

*The Department should ensure Unit Grievance Investigators retain all medical grievance documentation for offenders assigned to their units.*

*TDCJ agrees. The Administrative Review and Risk Management Division will ensure unit grievance coordinators retain or archive these records. Annual training will be provided to unit medical providers on the processes required for handling Step 1 grievances. Audits will be conducted to ensure that medical grievance documentation is being kept in accordance with policy and the records retention schedule.*

*The Department should ensure Unit Grievance Investigators accept medical grievances signed by only authorized personnel and that grievances do not include a stamp as a signature.*

*TDCJ agrees. The TDCJ Health Services Division staff was made aware of this practice during the SAO audit and corrective action was taken at that time.*

*The Department should ensure the HS Division maintains documentation to support the investigation and resolution of Patient Liaison Program inquiries.*

*TDCJ agrees. This Health Services Division Patient Liaison Program will review current auditing process and develop a more consistent method of review to ensure documentation is maintained.*

*The Department should ensure the HS Division implements controls over data entry of case date information into the Patient Liaison Program database to prevent and detect errors.*

*TDCJ agrees. An exception report will be run monthly and utilized to review and find such errors. This information will be reported to the senior management in the monthly Quality Control reports.*

Chapter 1-C

**The Department's Office of the Inspector General Substantially Complies with Its Policies and Procedures Governing Investigations**

**Office of the Inspector General (OIG)**

The OIG, which reports directly to the Board of Criminal Justice, receives allegations from several sources, including offenders, offenders' family members, attorneys, legislators, other Department divisions, prison unit employees, and referrals of offender and employee grievances filed at the prison units.

The OIG opens two types of cases: administrative and criminal.

Administrative cases are related to investigations of possible violations of employees' general rules of conduct, including improper use of force and retaliation; criminal cases are related to investigations of possible felony crimes involving offenders or prison unit staff.

In addition, the OIG opens information files to conduct preliminary investigations to determine whether there is sufficient evidence to open an administrative or criminal case.

The Office of the Inspector General (OIG) substantially complies with its policies and procedures that govern the screening, investigation, and resolution of criminal and administrative cases (see text box). The OIG screened cases properly, provided a timely response for cases referred by the Offender Grievance Program, included required documentation in the case files to support its Investigative Reports, and ensured that the first line supervisor and General Counsel reviewed the cases. The OIG also referred sustained administrative cases to the appropriate Department division and communicated criminal case information to the Special Prosecution Unit. However, the OIG could strengthen controls over the review of criminal cases and over the entering of case date information into its Case Management System.

The OIG opened 5,566 criminal and administrative cases and 1,620 information files from September 1, 2006, through February 29, 2008 (see Table 8).

Table 8

Office of the Inspector General Cases Opened During Fiscal Year 2007 and the First Six Months of Fiscal Year 2008			
Type of Case	Cases Opened During Fiscal Year 2007	Cases Opened from September 1, 2007, to February 29, 2008	Total Cases Opened
Criminal Cases	3,194	1,708	4,902
Administrative Cases	444	220	664
Information Files <sup>a</sup>	1,106	514	1,620
<b>Totals</b>	<b>4,744</b>	<b>2,442</b>	<b>7,186</b>

<sup>a</sup> Some information files also would be classified as criminal or administrative cases if evidence was sufficient to open a case (the information files would be closed and the criminal or administrative cases would be opened).

Source: Office of the Inspector General Case Management System.

As of May 5, 2008, the OIG had closed 5,006 of the 7,186 cases opened from September 1, 2006, through February 29, 2008 (see Table 9 on the next page).

Table 9

Status of Office of the Inspector General Cases Opened and Closed Fiscal Year 2007 and First Half of Fiscal Year 2008 (as of May 5, 2008)			
Case Type	Cases Closed	Cases Still Open	Total
Criminal Cases	3,366	1,536	4,902
Administrative Cases	320	344	664
Information Files	1,320	300	1,620
<b>Totals</b>	<b>5,006</b>	<b>2,180</b>	<b>7,186</b>

Source: Office of the Inspector General Case Management System.

The majority of administrative cases that the OIG opened in fiscal year 2007 and the first half of fiscal year 2008 were (1) referred directly to the unit investigator from correspondence assigned to the investigator or from individuals at the prison units and (2) referred to the OIG by unit grievance staff members (see Table 10).

Table 10

Referral Sources for Administrative Cases Opened by Office Fiscal Year 2007 and First Six Months of Fiscal Year 2008		
Referral Source	Number of Cases	Percent of Total
Directly to Investigator	304	46%
Grievance System	182	27%
Use of Force Review	61	9%
Directly to Investigative Department	57	9%
Unit Warden	45	7%
Office Director of Investigations	3	0%
Ombudsman Program	3	0%
Equal Employment Opportunity Complaints	2	0%
Inspector General	2	0%
Governor's Office/Office of the Attorney General/Legislature	2	0%
Texas Board of Criminal Justice	1	0%
Parole Division	1	0%
Department Executive Director	1	0%
<b>Total</b>	<b>664</b>	
Note: The percentages do not sum to 100 percent due to rounding.		

Source: Office of the Inspector General Case Management System.

The OIG does not always ensure that reviews of its criminal cases comply with its policies.

The OIG ensures that first-level reviews of criminal case files are consistently completed by its Lieutenants once the investigations are completed. However, the OIG does not always ensure that criminal case investigations are consistently reviewed and approved by the Regional Captain, as required by OIG policy (see text box for information on the Office's internal structure). Eleven (21 percent) of 53 criminal case files tested by auditors were not reviewed by the Regional Captains. OIG management stated that current OIG's practices is to have either a Lieutenant or the Regional Captain review and approve a criminal case; only high-profile or sensitive cases receive reviews by both the Lieutenant and Regional Captain. However, OIG policy OIG-03.35 states that all criminal cases should be reviewed first by a Lieutenant to ensure accuracy and then by the Regional Captain, who approves the case. The policy does not distinguish whether different types of cases should receive differing levels of review. Without a secondary review for certain types of cases, the OIG may increase its risk that the investigative findings and disposition in a criminal case may be incorrect, which also may increase the risk of subsequent litigation.

**Structure of OIG's Departments**

The OIG comprises three departments: (1) Administrative Support and Programs, (2) Investigations, and (3) General Counsel. The Investigations Department is divided into four regions. Each region is managed by a Regional Captain and is authorized two or three Lieutenants, who assist the Captains in managing the region and serve as first-line supervisors to the investigators. The Investigations Department is authorized 79 Investigators. The Administrative Support Department includes one investigation region and is authorized 18 Investigators and two Lieutenants.

Although screened and investigated in accordance with policy, almost half of the criminal cases opened by the OIG during fiscal year 2007 and the first six months of fiscal year 2008 ended with no charges being filed against the suspects, and 20 percent of the opened cases ended with a suspect being prosecuted (or had a prosecution pending). Table 11 lists the disposition of criminal cases, as of May 5, 2008, that were opened by the OIG between September 1, 2006, and February 29, 2008.

Table 11

Disposition of Criminal Cases Opened by the OIG During Fiscal Year 2007 and First Six Months of Fiscal Year 2008 (as of May 5, 2008)		
Disposition	Number of Cases	Percent of Total
No Charges Filed	2,141	44%
Blank (investigations that have not progressed to the point where a disposition can be determined)	1,529	31%
Alternative Prosecution (defendant was prosecuted by another law enforcement agency other than the OIG)	564	12%
Prosecution Refused by District Attorney	211	4%
Prosecution Pending	187	4%

Disposition of Criminal Cases Opened by the OIG During Fiscal Year 2007 and First Six Months of Fiscal Year 2008 (as of May 5, 2008)		
Disposition	Number of Cases	Percent of Total
True Billed (grand jury indicted the defendant and the defendant was bound over for trial)	106	2%
Sentenced	85	2%
No Billed (grand jury refused to indict the defendant and the case was not sent forward for trial)	49	1%
Complainant Refused to Cooperate in Prosecution	23	0%
Dismissed (charges dismissed by a judge and the defendant was not tried for the crime)	7	0%
<b>Totals</b>	<b>4,902</b>	<b>100%</b>

Source: Office of the Inspector General Case Management System.

**The OIG should improve controls over the entering of case date information into its Case Management System.**

**Case Management System**

The automated Case Management System (System) is used only by the OIG and it does not interface with any other Department system. Case managers in the OIG's Records Department open cases in the System and make changes to case information. Investigators do not have access to the System and contact Case Managers to update case information. There are certain regional OIG staff members and members of OIG's Special Prosecution Unit with limited edit capability to update case information in the System.

The OIG uses its Case Management System (System) to track and maintain information about its cases (see text box). However, the OIG should strengthen controls to ensure that date-related information in its System is accurate. Auditors tested 63 criminal, administrative, and informational case files and identified one file (2 percent) containing a close date that was different than the close date in the System. The OIG confirmed that the closed date should be the date listed in the case file.

In addition, auditors analyzed the population of all case information data entered into the System between September 1, 2006, and February 29, 2008 and identified the following:

- 17 criminal cases had case open dates that were after the case closed dates.
- One administrative case was classified as closed, but it lacked a date in the case closed field.
- Two information files had file open dates that were after the file closed dates.

The OIG confirmed the discrepancies and stated that it would make the appropriate corrections to the System. While the number of cases with errors is not significant, errors in the System could affect management's use of the data to track cases and for reporting purposes.

## Recommendations

The OIG should:

- Ensure that both Lieutenants and Regional Captains review and approve criminal cases in compliance with OIG-03.35, or revise this policy to specify whether differing types of cases require different levels of review.
- Implement controls over the data entry of case date information into its Case Management System to prevent and detect errors.

## Management's Response

The OIG should ensure that both Lieutenants and Regional Captains review and approve criminal cases in compliance with OIG-03.35, or revise this policy to specify whether differing types of cases require different levels of review.

*The OIG agrees. Policy will be revised to specify when differing types of cases require different levels of review.*

The OIG should implement controls over the data entry of case date information into its Case Management System to prevent and detect errors.

*The OIG agrees. The controls over the data entry of information will be reviewed and modified as appropriate.*

## The Department Substantially Complies with the Safe Prisons Plan Related to Its Safe Prisons Program; However, It Should Improve Controls Over Documentation of Investigations

### Offender Protection Investigations (OPIs)

Anyone who believes that an offender may need protection can initiate an offender protection investigation. The Unit's Major oversees the investigation and ensures that the offender is safely housed while the investigation is conducted. For sexual abuse incidents, the Office of the Inspector General (OIG) and the Department's Emergency Action Center are notified. In addition to a unit investigation, the OIG may conduct a criminal investigation. The unit investigative report is forwarded to the Unit's Chief of Classification. The Unit Classification Committee decides whether to grant the offender a change in housing, work assignment, work-shift hours, or recommend a unit transfer.

### Safe Prisons Program

The Department implemented the Safe Prisons Program to prevent offender-on-offender sexual abuse. The Safe Prisons Program also encompasses acts of violence or aggression that may lead to sexual abuse. In accordance with Texas Government Code Section 501.011, the Department has adopted a zero-tolerance policy regarding sexual abuse of an offender.

The Department's Safe Prisons Program developed the Safe Prisons Plan to govern offender protection investigations (OPIs) and prevent, record, and monitor acts of offender-on-offender sexual abuse (see text box for more information on OPIs). The Safe Prisons Program Office provides training to unit staff and reports safe prison-related information, such as alleged sexual assaults and the number of OPIs conducted (see text box for more information on the Safe Prisons Program). Within the units, there is a Safe Prisons Program Coordinator, who provides sexual abuse awareness to unit staff and offenders, assists the Warden with the implementation and monitoring of the Safe Prisons Program, and may participate in the OPI process.

The Department conducted OPIs in accordance with the Safe Prisons Plan. Specifically, the units ensured (1) that offenders were safely housed until the Unit Classification Committee reviewed and made a decision on the protection request, (2) OPIs were properly approved, and (3) OPIs were completed in the appropriate time frame. In addition, the Department properly notified the Emergency Action Center and the Office of the Inspector General (OIG).

The Department conducted 34,436 OPIs from September 1, 2006, through February 29, 2008. The 7 units where the Department conducted the highest number of OPIs were large units in which the offender population exceeded 2,000; these accounted for 31 percent of all OPIs the Department conducted during this time period. Private facilities, which include privately operated units, state jails, and other contracted facilities, conducted the fewest OPIs with 4 percent of all OPIs conducted during this time period. (See Appendix 4 for information about the number of OPIs conducted in each region.)

The Department does not consistently ensure that OPI logs are accurately documented.

Forty of 188 (21 percent) OPI log entries reviewed by auditors at the 7 units visited were not documented in accordance with Department policy. Of these 40 OPI log errors, 6 were data entry errors. The remaining 34 errors were due to the unit's classification staff's inadequate monitoring and misunderstanding of the documentation process. For example, the incident type was not documented correctly for one unit. Inaccurate OPI log documentation may result in the Department not adequately tracking and reviewing offender protection requests, which could affect offenders' safety.

The Department completed OPIs in a timely manner; however it did not always obtain authorized extensions.

#### Offender Protection Investigation Time Frames

Time frames for OPIs are contingent on the offender's housing placement (administrative segregation, transient status, or general population) pending the Unit Classification Committee's decision on the protection request.

**Administrative segregation** - The Warden or his designee shall complete an investigation within 72 hours of the time the request for protection was received. The Warden may authorize an extension for an additional 72 hours.

**Transient status** - The investigation must be completed within 72 hours of the offender's placement in transient housing. The Warden may authorize an extension for an additional 72 hours.

**General population** - An investigation report must be completed, reviewed, and signed within 12 hours of the time a request for protection was received.

Source: Safe Prisons Plan.

The Department completed 183 of 188 (97 percent) OPIs reviewed by auditors within the appropriate time frame in accordance with the Safe Prisons Plan (see text box). Twenty-five of these OPIs required an authorized extension from the unit's warden to complete the investigation. However, the Department did not obtain an authorized extension for 3 (12 percent) of these investigations.

The Safe Prisons Program Office provides adequate training to Program coordinators and unit staff.

Each unit is required to have a Safe Prisons Program Coordinator (coordinator), who is responsible for providing sexual abuse awareness information to unit staff and offenders. The coordinators receive sexual abuse awareness training from the Safe Prisons Program Office, and they receive annual Program training on conducting OPIs and tracking Program activity that complies with the Safe Prisons Plan. Unit correctional officers receive training from coordinators on (1) how to recognize the signs of sexual abuse, (2) the referral process of an alleged sexual abuse

incident, (3) sexual abuse prevention and response techniques, (4) awareness and sensitivity of life endangerment situations, and (5) the methods to track and prevent extortion issues.

The Department did not always ensure that all units displayed the appropriate zero-tolerance policy postings informing staff and offenders about the process for reporting sexual assaults.

Texas Government Code, Section 501.011, requires each unit to display zero-tolerance policy information about how to report possible sexual abuse of offenders. The zero-tolerance policy information is required to be displayed in the Chief Administrator's office, employees' break room, employees' cafeteria, and at least six additional locations on the unit. Although the Department typically posted information in more locations than mandated by statute, some of the units visited by auditors did not have all of the appropriate zero-tolerance policy postings. Specifically:

- One of 7 units visited did not have the appropriate posting in the Chief Administrator's office.
- Two of 7 units visited did not have the appropriate postings in the employees' cafeteria and at a minimum of six additional locations on the unit.



The Safe Prisons Program Office accurately reported Program activity; however, it did not ensure that it received all units' monthly Program reports.

The Safe Prisons Program Office, which reports Program activity to the Correctional Institution Division on a monthly basis (see text box), accurately reported Program activity related to OPIs conducted and Extortion Investigation Team activities for the seven units visited by auditors. The Safe Prisons Program Office reported that 3,820 OPIs were conducted and 6,628 Extortion Investigation Team activities were completed from September 1, 2006, through February 29, 2008. Extortion Investigation Team activities include the number of safe prisons investigations. Auditors determined that these numbers were accurate.

#### Safe Prisons Program Reports

The Safe Prisons Program Office reports monthly Program activity to the Department's Correctional Institution Division's executive management. These reports include:

- Number of alleged sexual assaults reported.
- Number of alleged sexual assault cases accepted by the OIG for investigation.
- Number of OPIs conducted.
- Extortion Investigation Team activities.

The Safe Prisons Program Office obtains OPI data from the Department's Classification Division's monthly report, Extortion Investigation Team data from each unit's monthly Program report, and sexual assault data from the Department's Emergency Action Center. The OIG provides the number of alleged sexual assault cases accepted by the OIG.

The Safe Prisons Program Office, however, did not report Program activities from July 2007 to February 2008 for one of the seven units visited by auditors because the Safe Prisons Program Office did not receive that unit's monthly Program reports. The Safe Prisons Plan requires the Safe Prisons

Program Office to analyze and evaluate trends in Program activity. Without obtaining all monthly reports, the Safe Prisons Program Office cannot ensure it is accurately analyzing and evaluating trends.

The Safe Prisons Program Office reported 836 alleged sexual assaults; the OIG determined that 321 of these were appropriate to open for investigation.

The Department reported 836 alleged sexual assaults from September 1, 2006, through February 29, 2008, according to the Safe Prisons Program Office. Nine units had the highest number of reported sexual assaults, accounting for 40 percent of the reported sexual assaults during this time period. Eight of these units are large facilities (in which offender population exceeds 2,000), and one unit was a medium-size facility (in which the offender population is between 1,000 and 2,000).

Thirty units did not report any alleged sexual assaults during this time period. Private facilities, which include privately operated units, state jails and other contracted facilities, had the fewest reported alleged sexual assaults, accounting for approximately 2 percent of all reported alleged sexual assaults. (See Appendix 4 for the number of reported alleged sexual assaults in units in each region.) The OIG determined it should open an investigation for 321 of the 836 (38 percent) reported alleged sexual assaults from this time period.

## Recommendations

The Department should:

- Ensure units accurately document the OPI log and, when needed, obtain authorized extensions.
- Ensure all units comply with all zero-tolerance policy postings required by Texas Government Code, Section 501.011.
- Ensure that the Safe Prison Program Office obtains monthly Program reports from all units.

## Management's Response

*The Department should ensure units accurately document the OPI Log and, when needed, obtain authorized extensions.*

*TDCJ agrees. TDCJ will emphasize the monitoring of the OPI Log, and documentation of OPI extension requests, through the Operational Review process. In addition, TDCJ will review current monitoring procedures and enhance training curriculum to ensure staff responsible for documenting the OPI Log and granting an extension for an OPI are properly trained.*

*The Department should ensure all units comply with all zero-tolerance policy postings required by Texas Government Code, Section 501.011.*

*TDCJ agrees. TDCJ will implement the following initiatives to ensure all units are aware of the Zero-Tolerance Policy postings required by the Texas Government Code, Section 501.011:*

- a. Specific language requiring adherence to the Zero-Tolerance Poster policy will be added to the Safe Prisons Plan.*
- b. The Safe Prisons Program Management Office will enhance training to emphasize compliance with the Government Code, specifically identifying locations that the Zero-Tolerance Poster will be displayed.*
- c. The Operational Review checklist for the Safe Prisons Program will be revised to ensure adherence to the policy regarding the placement of the Zero-Tolerance Poster.*
- d. An Agency wide email will be used to immediately communicate the requirements of the Zero-Tolerance Poster policy.*

The Department should ensure that the Safe Prison Program Office obtains monthly Program reports from all units.

*TDCJ agrees. The Safe Prisons Program Management Office will enhance current practices to ensure all units are submitting the monthly program reports in a timely manner by notifying agency administrators of delinquencies, and requiring facilities submitting delinquent reports to submit documentation detailing corrective action.*

Chapter 1-E

## **The Department's Ombudsman Program Substantially Complies with Applicable Rules and Regulations Governing Its Processes for Complaints and Inquiries**

The Department's Ombudsman Program received 31,071 complaints and inquiries from elected officials and the general public during fiscal year 2007 and the first six months of fiscal year 2008 (see Table 12 on the next page). The Ombudsman Program substantially complies with applicable rules and regulations governing its processes for the screening, resolution, and communication of these complaints and inquiries (see text box). The Ombudsman Program:

### **Ombudsman Program**

The Department's Ombudsman Program receives complaints and inquiries from elected officials and the general public. Complaints and inquiries can be filed by telephone, e-mail, U.S. mail, and in person. The Ombudsman Program responds to inquiries or coordinates investigations with other Department divisions or units.

The Ombudsman Program comprises the Ombudsman Coordinator's Office, the Correctional Institutions Division Ombudsman Office, and the Parole Division Ombudsman Office.

- Responded to complaints and inquiries received by the Ombudsman Coordinator's Office in a timely manner.
- Provided training to Department employees and promoted public awareness about its purpose and functions.

- Effectively communicated with other Department divisions and units regarding investigations pertaining to complaints or inquiries.

However, the Ombudsman Program could improve the timeliness of responses from the Correctional Institutions Division Ombudsman Office and the Parole Division Ombudsman Office. In addition, the Ombudsman Program should strengthen its controls by developing and implementing uniform policies and procedures and improving its process for tracking responses to complaints and inquiries referred to other divisions and units.

The Ombudsman Case Tracking System (System) contains good controls over access to the System and management of the data; however, additional controls are needed to ensure the integrity and security of System data.

Table 12

Complaints and Inquiries Received by the Ombudsman Offices September 1, 2006, through February 29, 2008		
Office	Number of Complaints and Inquiries Received	Percent of Total
Ombudsman Coordinator's Office <sup>a</sup>	4,354	14%
Correctional Institutions Division	14,292	46%
Parole Division	12,425	40%
<b>Totals</b>	<b>31,071</b>	<b>100%</b>
<sup>a</sup> The Ombudsman Coordinator's Office also addressed complaints and inquiries from private facilities; 715 of these 4,354 complaints and inquiries were from private facilities.		

Source: Ombudsman Case Tracking System.

The Ombudsman Program trains Department staff and promotes public awareness about the Ombudsman Program in accordance with Department policies.

Department policy requires the Ombudsman Program to train staff on handling complaints and inquiries from the public and how to properly utilize the Ombudsman Program offices. To accomplish this, the Ombudsman Program has provided in-service training for Wardens, Assistant Wardens, and Majors; and training sessions for Contract Monitors in the Department's Private Facility Contract Monitoring/Oversight Division.

Department policy also requires the Ombudsman Program to develop informational materials to ensure that the general public, as well as elected officials, are aware of the Ombudsman Program and its operations. To accomplish this, the Ombudsman Program (1) provides brochures to family members of incarcerated offenders, (2) publicly addresses conferences and organizations for family members of incarcerated offenders, (3) posts signs at units and district parole offices, and (4) participates in Department legislative workshops. Additionally, the Ombudsman Program coordinates with Department administrators, regional directors, and Wardens to speak at public functions to raise general awareness of the operations of units and state jails.

The Ombudsman Program does not always track responses to complaints and inquiries it refers to other divisions and units.

The Ombudsman Program referred 2,445 complaints and inquiries—8 percent of the 31,071 complaints and inquiries the Ombudsman Program received—to other divisions or units for investigation from September 1, 2006, through February 29, 2008 (see Table 13 on the next page). If the investigating division or unit provides a written response directly to the individual(s) who submitted the complaint or inquiry, Department policy requires the division or

unit to provide a copy of the response to the Ombudsman Program. However, auditors noted that in some instances, the Ombudsman Program did not receive a copy of the final response provided by the investigating division or unit. Specifically:

- Fifty-eight of 60 (97 percent) files tested for complaints or inquiries referred by the Ombudsman Coordinator’s Office included a copy of the response provided by the investigating division or unit.
- Fifty-eight of 60 (97 percent) files tested for complaints or inquiries referred by the Correctional Institutional Division Ombudsman Office included a copy of the response provided by the investigating division or unit.
- Fifty-six of 60 (93 percent) files tested for complaints or inquiries referred by the Parole Division Ombudsman Office included a copy of the response provided by the investigating division or unit.

Although the number of files lacking a copy of the response is not significant, it is important that the Ombudsman Program receives copies of the responses provided by the investigating division or unit so it can ensure that complaints or inquiries received a written response within the appropriate time frames.

Table 13

Ombudsman Program Referrals of Complaints and Inquiries September 1, 2006, through February 29, 2008		
Division or Department Receiving the Referral	Number of Referrals	Percent of Total Referrals
Private Facility Contract Monitoring/Oversight Division	9	0%
Classification and Records	303	12%
Community Supervision and Corrections Departments	11	0%
Functional Managers <sup>a</sup>	726	30%
Office of the General Counsel	1	0%
Health Services Division	563	23%
Office of the Inspector General	5	0%
Mail System Coordinators Panel	28	1%
Other <sup>b</sup>	351	14%
Board of Pardons and Parole	239	10%
Rehabilitation and Reentry Programs Division	73	3%
Victim Services	136	6%
<b>Totals</b>	<b>2,445</b>	<b>100%<sup>c</sup></b>

<sup>a</sup> A functional manager is a Department employee who is responsible for a particular functional area within

Ombudsman Program Referrals of Complaints and Inquiries September 1, 2006, through February 29, 2008		
Division or Department Receiving the Referral	Number of Referrals	Percent of Total Referrals
the Department (for example, Prison Units and State Jails, Chaplaincy Program, Commissary and Trust Fund Department, Human Resources Division, and other similar areas).		
<sup>b</sup> Complaints that cannot be addressed by the Ombudsman Program, such as offender grievances or those that the Department has no authority to address, are referred to the appropriate division or entity.		
<sup>c</sup> The percentages do not sum to 100 percent due to rounding.		

Source: Ombudsman Case Tracking System.

**The Ombudsman Program lacks written, uniform policies and procedures.**

The Ombudsman Program lacks written, uniform policies and procedures for the processing of complaints and inquiries. Department Executive Directive 02.03 requires the Ombudsman Coordinator’s Office to develop uniform policies and procedures for the Department’s Ombudsman Program. Without documented, uniform procedures, the Department cannot ensure that all Ombudsman Program offices process complaints and inquiries in a consistent manner.

The Ombudsman Program provided timely responses to complaints and inquiries received by its Coordinator’s Office; however, it did not adequately ensure that complaints received by its Correctional Institutions Division and Parole Division offices always received timely responses.

Department Executive Directive 02.03 establishes time frames for acknowledging and responding to complaints and inquiries received by the

Ombudsman Program (see text box). However, the Ombudsman Program does not always ensure that all its offices comply with these timelines. Specifically:

**Ombudsman Program Time Frames for Responding to Complaints and Inquiries**

- Complaints and inquiries from the general public are required to receive an acknowledgement within 10 business days of receipt and a final response within 30 business days of receipt.
- Complaints and inquiries from elected officials are required to receive an acknowledgement within 5 business days of receipt and a final response within 10 business days of receipt.
- Allegations of life threatening situations pertaining to incarcerated offenders are required to be reported immediately to the appropriate unit administration for investigation. An acknowledgement of receipt is sent to the person who submitted the complaint advising that action is being taken. The Ombudsman Program also provides a final response to the person(s) who submitted the complaint immediately upon completion of the investigation.

Source: Department Executive Directive 02.03.

- All 60 complaints and inquiries tested at the Ombudsman Coordinator’s Office received a response within required timelines.
- Fifty-seven of 60 (95 percent) complaints and inquiries tested at the Correctional Institutions Division Ombudsman Office received responses within the required time frames. The three remaining complaints and inquiries were exceptions due to data-entry errors that caused the response due dates to be calculated incorrectly.
- Fifty-four of 60 (90 percent) complaints and inquiries tested at the Parole Division Ombudsman Office received a response within the required 10 business days.

The Parole Division Ombudsman Office received 12,245 complaints from September 1, 2006, through February 29, 2008, which represents 40 percent of the 31,071 complaints received by the Ombudsman Program. The Parole Division Ombudsman Office has three full-time employees. Auditors noted problems in this office’s ability to ensure that responses are provided on a timely basis and ensure the accurate entry of data in the Ombudsman Case Tracking System. The resources allocated to the Parole Division Ombudsman Office may not be sufficient to address its workload.

The Ombudsman Program accurately reported its activities; however, it should improve controls over its reporting of performance target results.

The Ombudsman Program prepares and submits quarterly management reports to the Department’s executive management, the Legislative Budget

Board, and the Office of the Governor that contain information about its activities and its progress toward performance targets (see text box). The Ombudsman Program accurately reported its activities in its management reports for fiscal year 2007 and the first two quarters of fiscal year 2008.

However, the Ombudsman Program reported inaccurate results for one performance target—“95 Percent of Emergency/Priority Inquiries Will Have an Investigation Initiated within Two Days.” Auditors’ recalculated results for all four quarters of fiscal year 2007 and the first two quarters of fiscal year 2008 differed from the results that the Ombudsman Program reported by more than 5 percent. In addition, all of the performance target results in the Ombudsman Program’s quarterly management reports are results from the previous quarter and, therefore, do not accurately portray the results for the reported quarter. For example, the results listed in the management report as first quarter of fiscal year 2007 results are actually fourth quarter of fiscal year 2006 results. The

reports, however, do not note this difference.

The Ombudsman Program lacks documented policies and procedures for preparing the performance targets within the quarterly management reports, including obtaining the correct data, calculating results, and reporting results. Also, the Ombudsman Program does not conduct an independent review of the calculations to ensure accuracy. Without documented procedures, the Ombudsman Program cannot ensure that its reported performance target results are prepared consistently and accurately.

The Ombudsman Program could improve controls over data management to ensure that the data is secure and reliable.

The Ombudsman Case Tracking System (System) contains good controls over access to the System and management of the data; however, additional

**Performance Measures Established by the Ombudsman Program**

The General Appropriations Act (80th Legislature) requires the Department to develop performance targets for its Ombudsman Program and report the results annually to the Legislative Budget Board and the Office of the Governor. The Ombudsman Program developed and reports the results for the following performance targets:

- 95 Percent of General Public Inquiries Will Be Addressed within 30 Working Days.
- 95 Percent of Legislative Inquiries Will Be Addressed within 10 Working Days.
- 95 Percent of Emergency/Priority Inquiries Will Have an Investigation Initiated within Two Days.
- 95 Percent of All Inquiries Will Be Resolved within 90 Days.
- 95 Percent of All Speaking Engagements Will Be Conducted as Scheduled.

Source: Ombudsman Coordinator’s Office strategic plan, fiscal years 2006 and 2007.

### Ombudsman Case Tracking System

The Ombudsman Case Tracking System (System) is a fully automated and integrated tracking system used to process complaints and inquiries from the public and elected officials. The System provides the ability to store and retrieve information through a System-generated tracking number, offender identification number, name of requestor, type of complaint, unit or office of complaint, and nature of complaint .

Users include staff from the Ombudsman Program offices, Offender Grievance Program Office, Office of the Inspector General, Office of the General Counsel, and Food and Laundry Services. Prison Wardens, Assistant Wardens, and Administrative Assistants also have access.

controls could be implemented to ensure the integrity and security of the data that is extracted from the System (see text box).

Ombudsman Program staff use data extracted from the System for analysis and reporting because it is easier to perform analysis using other software, such as Microsoft Excel and Access, than it is to use the System. Because the extracted data is stored in a shared network folder, security over the data is weakened. In addition, the risk of data errors increases if the data is changed outside of the automated System controls. Additionally, a number of technical support staff and contractors have unnecessary access to System data and could alter data without authority.

Ombudsman Program staff extract data from the System because the System does not contain the functionality to provide all needed reports and conduct analysis. However, requests to improve the System are a low priority for the Department's Information Technology Division.

In addition, the Parole Ombudsman Division Office did not always correctly enter the sources of complaints and inquiries into the System. Fifty-six of 60 (93 percent) complaints and inquiries tested in the Parole Division Ombudsman Office correctly identified the source of the complaint as being legislative or a member of the general public. These two sources have different time frames for required responses, and entering the sources incorrectly into the System could cause an untimely response to a complaint or inquiry. The Ombudsman Program does not have a process for reviewing information entered into the System to ensure accuracy.

### Recommendations

The Department should:

- Develop and implement written, uniform policies and procedures for its Ombudsman Program for the processing of complaints and inquiries.
- Ensure that divisions and units provide the appropriate ombudsman office a copy of responses to complaints and inquiries referred to the divisions and units by the Ombudsman Program.
- Assess the staffing and workload in the Parole Division Ombudsman Office to ensure that it has adequate staff to handle the workload and provide responses to the individual(s) filing the complaint or inquiry within required timeframes.



- Develop and implement documented procedures for calculating the results of the Ombudsman Program offices' performance target results, including a documented independent review to ensure accuracy of the information.
- Ensure that the Ombudsman Program accurately depicts the performance target results for the quarter reported in its management reports.
- Minimize the need for users to extract data from the Ombudsman Case Tracking System and to perform their work outside of the system controls, and develop compensating controls to ensure that extracted data is reliable and secure. This should include improving network folder security controls.
- Limit the number of technical support accounts.
- Ensure that the Information Technology Division prioritizes enhancements of the Ombudsman Case Tracking System so that user requests to strengthen necessary controls are completed in a timely manner.
- Ensure that the Parole Division Ombudsman Office enters the appropriate sources of complaints into the Ombudsman Case Tracking System.

#### Management's Response

*The Department should develop and implement written, uniform policies and procedures for its Ombudsman Program for the processing of complaints and inquiries.*

*TDCJ agrees. A procedures manual has been drafted to establish uniform procedures for the entire Agency Ombudsman Program. This manual will be distributed when finalized.*

*The Department should ensure that divisions and units provide the appropriate ombudsman office a copy of responses to complaints and inquiries referred to the divisions and units by the Ombudsman Program.*

*TDCJ agrees. Divisions and units will be instructed to send copies to the Ombudsman Program when a response to a complaint or inquiry has been provided.*

*The Department should assess the staffing and workload in the Parole Division Ombudsman Office to ensure that it has adequate staff to handle the workload and provide responses to the person(s) filing the complaint or inquiry within required timeframes.*

*TDCJ agrees. Staffing will be reviewed and will be adjusted as necessary to ensure the Parole Division Ombudsman Office is adequately staffed.*

The Department should develop and implement documented procedures for calculating the results of the Ombudsman Program offices' performance target results, including a documented independent review to ensure accuracy of the information.

TDCJ agrees. Performance measures are being reviewed and the methodology will be documented in order ensure that accurate measurements are taken of all complaint or inquiry responses. A supervisory review will be conducted to ensure the accuracy of the information.

The Department should ensure that the Ombudsman Program accurately depicts the performance target results for the quarter reported in its management reports.

TDCJ agrees. The management report will note specifically that data is from one quarter prior to the current time frame.

The Department should minimize the need for users to extract data from the Ombudsman Case Tracking System and to perform their work outside of the System controls, and develop compensating controls to ensure that extracted data is reliable and secure. This should include improving network folder security controls.

TDCJ agrees. The Information Technology Division will enhance the OCTS to include limitation of users extracting data.

The Department should limit the number of technical support accounts.

TDCJ agrees. The Information Technology Division will identify who has access to the Ombudsman Case Tracking System and as appropriate revoke their access.

The Department should ensure that the Information Technology Division prioritizes enhancements of the Ombudsman Case Tracking System so that user requests to strengthen necessary controls are completed in a timely manner.

TDCJ agrees. The Information Technology Division will coordinate with Agency Executive Management to ensure the enhancements to the Ombudsman Case Tracking System are appropriately prioritized.

The Department should ensure that the Parole Division Ombudsman Office enters the appropriate sources of complaints into the Ombudsman Case Tracking System.

TDCJ agrees. Parole Division Ombudsman Office staff will be trained to ensure appropriate data entry.

## The Department Appropriately Screens Employee Grievances and Equal Employment Opportunity Complaints; However, It Should Improve the Timeliness of EEO Reviews and Investigations

The Department's Human Resources Division (HR Division) has adequate

### Employee Grievance Program

An employee grievance allows Department employees to seek resolution to unfair or inequitable treatment regarding employment-related matters such as wages, hours, disciplinary actions, or working conditions.

An Equal Employment Opportunity complaint may be filed by an employee who believes he or she has been subjected to discrimination based on race, color, sex (gender), religion, national origin, age (40 or above), disability, or genetic information. Any harassment or retaliation is also prohibited.

Source: Department of Criminal Justice.

policies and procedures for the screening, investigation, and resolution of employee grievances and Equal Employment Opportunity (EEO) complaints (see text box for descriptions of these complaints). All employee grievances tested were screened appropriately, and all EEO complaints tested were screened and resolved appropriately by the HR Division. However, the HR Division should improve the timeliness of supervisory reviews of EEO complaint investigations. In addition, the HR Division's Case Management System accounts for all employee grievances and EEO complaints.

The HR Division appropriately screens employee grievances and EEO complaints.

The HR Division reported it closed 2,612 employee grievances and EEO complaints from September 1, 2006 through February 29, 2008 (see Table 14 on the next page). Auditors tested 30 employee grievance files and 60 EEO complaints that were opened from September 1, 2006, through February 29, 2008. For all 90 grievances and complaints tested, the HR Division (1) appropriately screened them in accordance with the Department's policies and procedures, (2) referred them to the appropriate program area, and (3) coded them properly in the HR Division's Case Management System. The grievances and complaints were not always referred to the appropriate program area within seven days as required by Department procedures; however, the delays were justifiable and reasons for the delays were adequately documented. Specifically:

- Twenty-four of 30 (80 percent) grievances tested were referred to the appropriate program area by the intake office within seven days of the case creation date as required by Department procedures.
- Fifty-one of 60 (85 percent) EEO complaints tested were referred to the appropriate program area within seven days of the case creation date as required by Department procedures.

Table 14

Employee Grievances and EEO Complaints Closed Fiscal Year 2007 and First Half of Fiscal Year 2008			
Case Type	Cases Closed in Fiscal Year 2007	Cases Closed from September 1, 2007, through February 29, 2008	Total Cases Closed
Employee Grievances	1,020	472	1,492
EEO Complaints	798	322	1,120
<b>Totals</b>	<b>1,818</b>	<b>794</b>	<b>2,612</b>

Source: HR Division's Case Management System reports.

**EEO Investigation and Review Process**

EEO complaints are referred to the HR Division's EEO Section for investigation. The EEO Section Director reviews investigative reports to ensure the information collected supports the recommended resolution. Once the investigative reports are approved, the HR Division's Director of Employee Relations (or designee) determines the resolution and the Office of General Counsel reviews the cases for legal sufficiency.

The HR Division conducts thorough EEO investigations and resolves complaints appropriately, but it should improve the timeliness of its reviews.

All 58 EEO complaint files reviewed by auditors contained sufficient documentation to indicate that a thorough investigation was performed (see text box). Twelve of the 58 (20 percent) investigations had not been completed within 60 days of their assignment to an investigator as required by the HR Division's procedures. However, 11 of the 12 investigations had an approved extension request and the delays appeared to be reasonable. In addition, the HR Division sufficiently documented the reasons for the delay in its Case Management System.

The HR Division appropriately resolved all 58 EEO complaints tested. In at least 95 percent of the 58 complaints tested, auditors found that EEO complaint resolution documentation (1) reflected a conclusion to the investigation and any action taken, (2) contained sensitive information in the file that was handled confidentially by the investigator, and (3) included documentation of the notification of the appropriate parties regarding the outcome.

The HR Division consistently performs supervisory reviews at various levels to ensure that cases are handled appropriately. Once the EEO Section approved the investigations, all 58 EEO complaints tested were reviewed and routed by the Director of Employee Relations within 5 days as required by HR Division procedures. However, auditors identified some delays in the supervisory reviews of the EEO investigative reports that affected the overall timeliness of the review process. Specifically:

- Only 40 (60 percent) of 58 EEO complaints tested were reviewed and subsequently forwarded by the Section Directors within 7 days of the case being routed to them as required by Department procedures.

- Fifty-three (91 percent) of 58 EEO complaints tested were reviewed and returned to the EEO Section by the Office of General Counsel (OGC) within 7 calendar days as required by Department procedures.

Untimely processing of EEO complaints may lead to decreased employee morale and increases in complaints filed externally with the Equal Employment Opportunity Commission or the Texas Workforce Commission's Civil Rights Division.

The HR Division's Case Management System was complete and accurate and has adequate controls over user access; however, additional controls are needed to ensure the continued integrity of the data.

**HR Division's Case Management System**

The HR Division documents all information it obtains throughout the employee grievance and EEO complaint process in a database stored on its automated Case Management System. Human resources staff at the prison units and at the Department level do not have access to the HR Division's system.

The HR Division's Case Management System accounted for all employee grievances and EEO complaints initiated by the units (see text box). Auditors compared the information in hard copy case files for employee grievances and EEO complaints at six prison units to the data in the Case Management System. Data for 317 of 319 (99 percent) files tested were complete and accurate in the System. Auditors did not review case files at the privately operated prison unit visited by auditors because this prison unit does not have Department employees.

The HR Division has adequate controls and procedures in place to control user access to its Case Management System; however, the HR Division should improve controls to ensure that case information data in the system continues to be complete, accurate, and secure. Specifically:

- The Case Management System does not check the format or validity of key data, such as the location codes for employee grievances and EEO complaints.
- Programmers can make unsupervised changes to the Case Management System, which could compromise the integrity of the data.
- Improvements in physical security controls are needed to decrease the risk that unauthorized people may physically access the Case Management System's server room.
- Additional controls over user logon access are needed.

Auditors communicated details of these suggested controls to Department management in writing.

Survey results indicate that the majority of Department employees are aware of the employee grievance and EEO complaint processes.

Auditors surveyed 673 Department employees at 6 prison units, 9 parole offices, a Correctional Institution Division regional office, the Private

Facilities Monitoring and Oversight Division office, the Community Justice Assistance Division office, and the Administrative Review and Risk Management Division office. Auditors received voluntary survey responses from 12 percent of the 3,116 employees at the prison units visited and 39 percent of the 736 employees at the non-unit offices visited. Auditors also received 50 comments from these same respondents.

Seventy-six percent of the respondents stated they are aware of the processes to file an employee grievance and EEO complaint; 81 percent of the respondents stated they knew where to access the policies and procedures for employee grievances and EEO complaints. Eighteen percent of employees surveyed stated they did not know how to file an appeal to an employee grievance if needed; however, 86 percent of employees surveyed stated they knew they could go to the human resources staff for assistance in filing an employee complaint or grievance. Table 15 lists selected employee survey results regarding awareness of the grievance process (see Appendix 2 for a complete copy of the survey and responses).

Table 15

Selected Employee Survey Results about Awareness of Grievance Process				
Survey Statement	Respondents Who Agreed with Survey Statement <sup>a</sup>	Respondents Who Were Neutral about Survey Statement	Respondents Who Disagreed with Survey Statement <sup>b</sup>	Survey Statement Not Applicable to Respondent
1. I am aware of the policies related to the employee complaint and grievance processes at the Department of Criminal Justice.	76%	14%	8%	2%
2. I know where to access the policies regarding the employee the employee complaint and grievance process.	81%	7%	10%	2%
3. If needed, I know I can seek assistance from human resources staff to file a complaint or grievance.	86%	8%	5%	1%
9. I know how to file an appeal if I'm not satisfied with the outcome.	49%	15%	18%	18%
<sup>a</sup> Respondents who agreed or strongly agreed with an individual survey statement were grouped together in the "Agree" column. <sup>b</sup> Respondents who disagreed or strongly disagreed with an individual survey statement were grouped together in the "Disagree" column.				

In addition, employee survey results indicate that a majority of Department employees are confident in the established employee grievance process—only 18 percent disagreed that the complaint and grievance system works. However, 28 percent of the employees surveyed and 18 percent of the survey comments indicated that employees fear retaliation from co-workers or supervisors if they file a grievance or complaint.

Only 4 percent of employees surveyed indicated they did not receive a response to a grievance or complaint and 6 percent stated they did not receive a response in a timely manner. Ten percent of the employees surveyed were not satisfied with the response provided. Table 16 lists selected employee survey results regarding satisfaction with the employee grievance process (see Appendix 2 for a complete copy of the survey and responses).

Table 16

State Auditor's Office Survey of Department Employees Survey Results Related to an Established Grievance Process				
Survey Statement	Respondents Who Agreed with Survey Statement <sup>a</sup>	Respondents Who Were Neutral about Survey Statement	Respondents Who Disagreed with Survey Statement <sup>b</sup>	Survey Statement Not Applicable to Respondent
4. I feel that complaints and grievances are screened properly.	46%	30%	15%	9%
5. I can file a complaint or grievance without fear of retaliation from a co-worker or supervisor. <sup>c</sup>	42%	25%	28%	4%
6. After filing a complaint or grievance, I received a response.	26%	14%	4%	56%
7. I received responses and resolution to my complaint or grievance in a timely manner. <sup>c</sup>	21%	16%	6%	56%
8. When I filed a complaint or grievance, I was satisfied with the response.	14%	17%	10%	59%
10. If I have a complaint or grievance, I am confident that the Department of Criminal Justice will address it appropriately and fairly.	50%	27%	18%	5%
11. I feel the employee complaint and grievance system works in the Department of Criminal Justice. <sup>c</sup>	40%	32%	18%	9%
<sup>a</sup> Respondents who agreed or strongly agreed with an individual survey statement were grouped together in the "Agree" column. <sup>b</sup> Respondents who disagreed or strongly disagreed with an individual survey statement were grouped together in the "Disagree" column. <sup>c</sup> The percentages do not all sum to 100 percent due to rounding.				

## Recommendations

The Department should:

- Ensure that EEO complaints are reviewed in a timely manner by all divisions involved.
- Add automated controls and update the database design to ensure the integrity and usability of the Case Management System data.
- Ensure that only documented and approved changes are made to the Case Management System.
- Improve physical security and logon access controls.

## Management's Response

*The Department should ensure that EEO complaints are reviewed in a timely manner by all Divisions involved.*

*TDCJ agrees. The EEO section of Human Resources will immediately commence developing methods and procedures to ensure EEO complaints are reviewed in a timely manner by EEO Section Directors. Changes to the Manual Case Tracking System (CTS) and the Case Management System (CMS) are being developed that will allow Section Directors to request and document extensions to the review process timelines when extenuating circumstances occur.*

*The Department should add automated controls and update the database design to ensure the integrity and usability of the Case Management System data.*

*TDCJ agrees. The development of edit checks enabling the Case Management System (CMS) to read additional codes from the Payroll/Personnel System (PPS) will increase the integrity and usability of the data. The new CMS is currently in development and will include these enhancements.*

*The Department should ensure that only documented and approved changes are made to the Case Management System.*

*TDCJ agrees. The programmers who revise and create new code will not migrate such code into the system. Procedures are being developed to ensure other individuals will be responsible for future code migration into the database.*



*The Department should improve physical security and logon access controls.*

*TDCJ agrees. The Department will upgrade the physical security of the server room by replacing the locking mechanism. The server room key will be properly secured at all times.*

## ***The Department Coordinates Its Activities to Resolve Complaints and Grievances, But Department Divisions Could Improve Certain Coordination Activities***

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The Offender Grievance Program, Health Services Division, Office of the Inspector General (OIG), Safe Prisons Program, Ombudsman Program, and Human Resources Division coordinate their activities to resolve allegations, complaints, and grievances. These Department divisions also made appropriate referrals to properly address complaints and grievances. Grievances filed through the Offender Grievance Program and third-party inquiries relating to offenders made through the Ombudsman Program were referred to the OIG when necessary. The OIG was also properly notified of Offender Protection Investigations that required a criminal investigation. In addition, the Ombudsman Program, Health Services Division, and OIG have access to the Offender Grievance Tracking System, which reduces duplication of efforts to resolve inquiries and investigations. However, the Department could strengthen certain coordination activities between its divisions and the OIG.

### Chapter 2-A

## **The Department Consistently Coordinates with the OIG and Emergency Action Center for Safe Prisons Activities; However, It Could Improve Communication Between the OIG and the Safe Prisons Program**

### **Reports of Sexual Abuse**

An offender may report a sexual abuse incident to any Department employee, who notifies the shift supervisor at the unit. The shift supervisor notifies the OIG and the Department's Emergency Action Center. The OIG may conduct a criminal investigation, and the Emergency Action Center notifies the Safe Prisons Program Office.

The Department's units consistently coordinate their activities with the OIG and the Emergency Action Center.

The Department coordinates its offender protection investigations with the OIG and the Emergency Action Center in accordance with the Safe Prisons Plan, which requires that the OIG and the Emergency Action Center be notified by the unit for all alleged sexual assaults reported (see text box). At the seven units visited, all reported sexual assault allegations tested between September 1, 2006, and February 29, 2008, were reported to the OIG and the Emergency Action Center as required.

The OIG should ensure that it notifies the Safe Prisons Program that a sexual assault suspect has been successfully prosecuted.

The Department's Safe Prisons Plan requires the OIG to inform the Safe Prisons Program after a sexual assault suspect has been successfully prosecuted. However, OIG management stated they were not aware of this requirement. The Safe Prisons Program is responsible for informing the victim about the status of the assailant. In addition, the Safe Prison Program Manager is required to record the prosecution information in the Unit Classification Review system to identify the assailant as a sexual predator.

Unit Classification uses this information to assign offender housing and grant protection status. If the OIG does not provide the sexual assault prosecution information, the Safe Prisons Program Manager may not be able to effectively provide notifications to victims and the assailant may not be classified correctly, which could pose a danger to other offenders.

### Recommendation

The OIG should ensure that it notifies the appropriate Safe Prisons Program staff after a successful prosecution of a sexual assault suspect.

### Management's Response

*The OIG agrees. The OIG will notify the Safe Prison Program staff after a successful prosecution.*

Chapter 2-B

## The Health Services Division and Offender Grievance Program Could Improve Coordination of Grievance Procedures

The Health Services Division (HS Division) and Offender Grievance Program (Grievance Program) could improve coordination of their written grievance procedures.

Auditors identified some discrepancies between the written procedures issued by the HS Division and those used by the Grievance Program. It is important that these two divisions coordinate effectively to ensure that medical-related grievances are processed correctly and in a timely manner.

HS Division's complaints process procedures require unit-level medical departments to investigate a grievance, formulate a response, obtain the authorized signature, and return the grievance to the Unit Grievance Investigator within 10 working days. The medical staff at 6 of 7 units that auditors visited were aware of this requirement, while none of the grievance investigators at the 7 units were aware of this HS Division-set timeline. Instead, unit-level medical staff used a variety of timeframes, including those provided by Unit Grievance Investigators, whose written procedures in the *Offender Grievance Operations Manual* require a unit-level medical employee to complete investigations and return the grievance to the Unit Grievance Investigator within 10 days for grievances containing multiple issues and within 30 days for grievances solely about medical issues. The HS Division procedures do not distinguish between grievances containing multiple issues and those with medical-only issues for its 10-working day timeframe.

Of medical grievances filed between September 1, 2006, and February 29, 2008, 143 of 182 (79 percent) tested were investigated and completed by the

unit-level medical staff within 10 working days. Of the grievance investigations that took the unit-level medical staff longer than 10 days to complete, all were completed within 30 days.

During this audit, HS Division management revised its guidelines effective June 25, 2008, to require unit medical staff to investigate and return the completed grievance to the Unit Grievance Investigator within 40 calendar days. However, this change may cause grievances to be returned to the offenders beyond the timeframes established by the Grievance Program. It is important that the HS Division coordinate any change in its investigation timelines with Grievance Program management to ensure that medical-related offender grievances are investigated and resolved in a timely manner.

In addition, there is a discrepancy between the written procedures of the HS Division and those of the Grievance Program regarding the grievance information that should be provided to unit medical staff. The HS Division's complaints process procedures state that the Unit Grievance Investigator should provide a narrative of the grievance, while the Grievance Program's manual states that unit-level medical staff should receive the entire grievance form for medical-only grievances and only the grievance narrative for multiple-issue grievances.

**Not all units had current information about the Patient Liaison Program.**

Offender orientation packets at two of seven units auditors visited had older versions of a Health Services handout, which stated that the Patient Liaison Program is available to offenders. However, as of September 1, 2004, offenders can no longer submit complaints about medical services to the Patient Liaison Program, and the HS Division revised its handout to reflect this change in April 2005. This out-of-date information may lead offenders to submit complaints to the HS Division in error. Offenders from all units submitted 4,013 letters to the Patient Liaison Program between September 1, 2006, and February 29, 2008, which accounted for 32 percent of the total Patient Liaison Program inquiries during that time. As a result, HS Division staff had to send a letter to each offender submitting a complaint explaining that offenders must now use the Offender Grievance Program or file a complaint with unit staff. In addition, offenders who submit complaints to the wrong division may have their concerns addressed in a less timely manner.

## Recommendations

The Department should:

- Ensure that medical grievance written procedures and requirements are standard across the Health Services Division and the Offender Grievance Program.

- Ensure that units have the most current version of Health Services-related information.

#### Management's Response

The Department should ensure that medical grievance written procedures and requirements are standard across the Health Services Division and the Offender Grievance Program.

*TDCJ agrees. The Informal Resolution Process Manual has outdated information about the Offender Grievance Process. TDCJ Health Services Division is in the process of reviewing all of the departmental policy and procedure manuals, as well as all supporting documentation (i.e. Informal Resolution Process Manual) to determine the revisions that are needed. The manual will be revised and limited to the Informal Resolution Process. For complaint programs other than the Informal Resolution Process, staff will utilize the policies and process manuals prepared by the proponents for those programs.*

The Department should ensure that units have the most current version of Health Services-related information.

*TDCJ agrees. The current (April 2005) version of the Health Services Offender Information handout will be distributed again to all units, and unit staff will be instructed to destroy previous versions.*

## ***Offender Survey Results Indicate That the Department Should Improve Efforts to Increase Awareness of How to File Complaints with the OIG or the Health Services Division***

Auditors surveyed 1,641 offenders at 7 selected units. Results for 14 of the 19 survey questions were discussed in Chapter 1-A. The remaining five survey questions address offenders' awareness of (1) the Safe Prisons Program, (2) access to the Office of the Inspector General (OIG), and (3) how to file complaints about medical services. Based on the survey results, the Department's efforts to increase awareness of the Safe Prisons Program appear effective; however, improvements are needed to inform offenders about how to access the OIG and how to file a complaint about medical services. (See Appendix 2 for all offender survey responses.)

Survey results indicate that offenders are aware of the Safe Prisons Program.

Seventy percent of offenders surveyed stated they were told about the Safe Prisons Program, and 73 percent know how to report a sexual assault incident (see Table 17). Offenders are provided a sexual assault awareness brochure during offender orientation and have access to sexual assault zero-tolerance policy postings at the units.

Table 17

Survey Results Related to Offenders' Awareness of the Safe Prisons Program				
Survey Statement	Respondents Who Agreed with Survey Statement <sup>a</sup>	Respondents Who Were Neutral about Survey Statement	Respondents Who Disagreed with Survey Statement <sup>b</sup>	Survey Statement Not Applicable to Respondent
17. I was told about the Safe Prisons Program. <sup>c</sup>	70%	7%	21%	3%
18. I know how to report a sexual assault incident.	73%	7%	15%	5%
<sup>a</sup> Respondents who agreed or strongly agreed with an individual survey statement were grouped together in the "Agree" column. <sup>b</sup> Respondents who disagreed or strongly disagreed with an individual survey statement were grouped together in the "Disagree" column. <sup>c</sup> The percentages do not sum to 100 percent due to rounding.				

Survey results indicate that some offenders are not aware of how to access the OIG or file a medical-related grievance.

Although offenders are provided written information about their options for contacting the OIG in the *Offender Orientation Handbook* and in some unit

orientation materials, 63 percent of offenders surveyed stated they do not know how to access the OIG (see Table 18).

Table 18

Survey Results Related to Offenders' Awareness of Access to the Office of the Inspector General				
Survey Statement	Respondents Who Agreed with Survey Statement <sup>a</sup>	Respondents Who Were Neutral about Survey Statement	Respondents Who Disagreed with Survey Statement <sup>b</sup>	Survey Statement Not Applicable to Respondent
16. If needed, I know how to access the Office of the Inspector General.	24%	7%	63%	6%
<sup>a</sup> Respondents who agreed or strongly agreed with an individual survey statement were grouped together in the "Agree" column. <sup>b</sup> Respondents who disagreed or strongly disagreed with an individual survey statement were grouped together in the "Disagree" column.				

In addition, offenders are provided written information about their options for filing complaints about medical services in the *Offender Orientation Handbook* and in some unit orientation materials; however, fewer than half of the offenders surveyed said they knew how to file an informal complaint (47 percent) or formal complaint (48 percent) about medical services (see Table 19).

Table 19

Survey Results Related to Offenders' Awareness of Filing Complaints About Medical Services				
Survey Statement	Respondents Who Agreed with Survey Statement <sup>a</sup>	Respondents Who Were Neutral about Survey Statement	Respondents Who Disagreed with Survey Statement <sup>b</sup>	Survey Statement Not Applicable to Respondent
14. I know how to file an informal complaint about medical services using an I-60. <sup>c</sup>	47%	7%	42%	5%
15. I know how to file a formal complaint (Step I) about medical services.	48%	8%	39%	5%
<sup>a</sup> Respondents who agreed or strongly agreed with an individual survey statement were grouped together in the "Agree" column. <sup>b</sup> Respondents who disagreed or strongly disagreed with an individual survey statement were grouped together in the "Disagree" column. <sup>c</sup> The percentages do not sum to 100 percent due to rounding.				

## Recommendations

The Department should:

- Consider using additional, non-written methods of communication to increase awareness of the grievance process among offenders who may have difficulties reading.
- Consider providing follow-up sessions with offenders to reinforce the information about the grievance process.

## Management's Response

*The Department should consider using additional non-written methods of communication to increase awareness of the grievance process among offenders who may have difficulties reading.*

*TDCJ agrees. The five hour videotape and Peer Education Program verbally discuss programs, to include the Offender Grievance Program, to ensure an offender who is illiterate receives notice of the grievance program. In addition, the Administrator of Offender Grievance will instruct Unit grievance staff to make themselves available to the offender population during mass movement, such as meal times, in order to answer questions, resolve issues and distribute grievance forms if needed. Other additional nonwritten methods of communication to increase awareness of the grievance process among offenders shall be researched. Further, although they are written forms of communication, additional efforts, including publishing a notice in the offender newspaper 'The Echo' and posting the notice at each unit in the Law Library and in the housing areas, will be made to provide current information and to enhance awareness of the grievance program.*

*The Department should consider providing follow-up sessions with offenders to reinforce the information about the grievance process.*

*TDCJ agrees. Procedures are being developed to direct unit grievance staff to proactively offer assistance to offenders. In addition, the Administrator of Offender Grievance will instruct Unit grievance staff to make themselves available to the offender population during mass movement, such as meal times, in order to answer questions, resolve issues and distribute grievance forms if needed.*



# Appendices

Appendix 1

## **Objectives, Scope, and Methodology**

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### **Objectives**

The objectives of the audit were to:

- Determine whether the Department of Criminal Justice (Department) is complying with policies and procedures and best practices governing the screening, investigation, and resolution of allegations of criminal behavior, serious policy violations, and serious offender and employee grievances.
- Determine whether the Office of the Inspector General, Office of the Ombudsman, Offender Grievance Program, Human Resources Division, and other areas of the Department effectively coordinate their activities to resolve complaints and allegations of criminal behavior, serious policy violations, and serious offender and employee grievances.

### **Scope**

The scope of the audit included reviewing and analyzing data from September 2006 through February 2008 for the following programs and related information systems:

- Offender Grievance Program.
- Employee Grievance and Equal Employment Opportunity Complaints.
- Office of the Inspector General (OIG).
- Ombudsman Program.
- Safe Prisons Program.
- Health Services Division.

In addition, auditors administered surveys to 1,641 offenders and 673 employees at 7 prison units, as well as parole offices and other Department offices.

### **Methodology**

The audit methodology included collecting information and documentation, performing selected tests and other procedures, analyzing and evaluating the

results of tests, conducting interviews with agency management and staff, and administering offender and employee surveys.

Information collected and reviewed included the following:

- Data from the automated systems at the Department, including the Offender Grievance Case Tracking System, Human Resources Case Management System, Ombudsman Case Tracking System, and Office of the Inspector General and Health Services case database systems.
- Department and Office of the Inspector General policies, procedures, guidelines, and manuals.
- Department and Office of the Inspector General documentation including organizational charts, management reports, grievance and complaint files, investigation case files, grievance and investigation logs, and program activity reports.

Procedures and tests conducted included the following:

- Analyzed data from the Department's automated systems and databases.
- Tested unit-level and appealed offender grievance files, Patient Liaison Program case files, Office of the Inspector General case files, Offender Protection Investigation files, Ombudsman Program case files, employee grievance files, and Equal Employment Opportunity complaint files to ensure consistency and compliance with Department policies and procedures.
- Reviewed Offender Grievance Program, Safe Prisons Program, and Ombudsman Program training documentation to ensure compliance with Department policies and procedures.
- Reviewed Ombudsman Program audit tools and documentation.
- Conducted walk-through inspections at seven selected state-operated and privately operated prison units and state jails (units) to determine offender accessibility to the Offender Grievance Program.
- Conducted walk-through inspections at selected units to determine offender awareness of the Safe Prisons Program and visitor awareness of the Ombudsman Program.
- Administered surveys to offenders and Department employees.
- Tested general and application controls of Department mainframe systems involved in the processing of offender and employee grievances and complaints, and performed data query validations.

Criteria used included the following:

- Texas Government Code, Chapters 493 and 501.
- Department and Office of the Inspector General policies, procedures, manuals, and guidelines, including the *Offender Orientation Handbook* and the Safe Prisons Plan.
- Department of Criminal Justice Web site.

## Project Information

Fieldwork was conducted from February 2008 through July 2008. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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- Worth Ferguson, CPA (Quality Control Reviewer)
- Anita D'Souza, JD, CFE (Audit Manager)

## Results of the State Auditor's Office Survey of Offenders and Employees

The State Auditor's Office surveyed 1,641 offenders—12 percent of the offender population at 7 selected prison units—and asked the respondents to rank their level of agreement or disagreement with 19 statements related to the grievance process, program accessibility, program awareness, and program reliability. Offenders also were asked about their awareness and perceived accessibility of other programs related to the offender grievance process. Table 20 lists the survey results. (See Chapters 1-A and 3 for analysis of survey responses.)

Table 20

Survey Results Related to Offenders' Awareness and Perceived Accessibility of Grievance Process				
Survey Statement	Respondents Who Agreed with Survey Statement <sup>a</sup>	Respondents Who Were Neutral about Survey Statement	Respondents Who Disagreed with Survey Statement <sup>b</sup>	Survey Statement Not Applicable to Respondent
1. I was told how the grievance system works at the Department of Criminal Justice.	32%	7%	55%	6%
2. I know where to access the offender grievance policies.	57%	7%	32%	5%
3. I can file a grievance when needed.	65%	7%	26%	2%
4. I am not afraid to file a grievance.	52%	9%	35%	4%
5. If I want to file a grievance, I know how to access the grievance form.	73%	7%	16%	4%
6. If I ask, staff will help me complete my grievance.	8%	8%	79%	5%
7. I feel that grievances are screened properly by the Unit Grievance Investigator.	10%	8%	77%	5%
8. After filing a grievance, I always get a response.	41%	11%	37%	11%
9. I know how to file an appeal if I am not satisfied with the outcome.	49%	8%	36%	7%
10. I always get to keep a copy of my grievance form.	45%	8%	35%	12%
11. I trust the Unit Grievance Investigator(s) at this facility.	7%	10%	78%	6%
12. Staff has never retaliated against me for filing a grievance.	16%	11%	62%	11%
13. I feel the grievance system works in the Department of Criminal Justice.	9%	9%	78%	4%

Survey Results Related to Offenders' Awareness and Perceived Accessibility of Grievance Process				
Survey Statement	Respondents Who Agreed with Survey Statement <sup>a</sup>	Respondents Who Were Neutral about Survey Statement	Respondents Who Disagreed with Survey Statement <sup>b</sup>	Survey Statement Not Applicable to Respondent
14. I know how to file an informal complaint about medical services using an I-60.	47%	7%	42%	5%
15. I know how to file a formal complaint (Step I) about medical services.	48%	8%	39%	5%
16. If needed, I know how to access the Office of the Inspector General.	24%	7%	63%	6%
17. I was told about the Safe Prisons Program.	70%	7%	21%	3%
18. I know how to report a sexual assault incident.	73%	7%	15%	5%
19. Department of Criminal Justice's management takes immediate action to address safety and welfare concerns of offenders.	13%	12%	71%	3%
<sup>a</sup> Respondents who agreed or strongly agreed with an individual survey statement were grouped together in the "Agree" column. <sup>b</sup> Respondents who disagreed or strongly disagreed with an individual survey statement were grouped together in the "Disagree" column. Note: The percentages do not all sum to 100 percent due to rounding.				

The State Auditor's Office also surveyed 673 Department of Criminal Justice (Department) employees at selected units, parole offices, and other departments and asked them to rank their level of agreement or disagreement with 11 statements related to the employee grievance and complaints processes. Table 21 lists the results. (See Chapter 1-F for analysis of these survey responses.)

Table 21

Survey Results Related to Department Employees' Awareness of Grievance Process				
Survey Statement	Respondents Who Agreed with Survey Statement <sup>a</sup>	Respondents Who Were Neutral about Survey Statement	Respondents Who Disagreed with Survey Statement <sup>b</sup>	Survey Statement Not Applicable to Respondent
1. I am aware of the policies related to the employee complaint and grievance processes at the Department of Criminal Justice.	76%	14%	8%	2%
2. I know where to access the policies regarding the employee complaint and grievance process.	81%	7%	10%	2%
3. If needed, I know I can seek assistance from human resources staff to file a complaint or grievance.	86%	8%	5%	1%

**Survey Results Related to Department Employees' Awareness of Grievance Process**

Survey Statement	Respondents Who Agreed with Survey Statement <sup>a</sup>	Respondents Who Were Neutral about Survey Statement	Respondents Who Disagreed with Survey Statement <sup>b</sup>	Survey Statement Not Applicable to Respondent
4. I feel that complaints and grievances are screened properly.	46%	30%	15%	9%
5. I can file a complaint or grievance without fear of retaliation from a co-worker or supervisor.	42%	25%	28%	4%
6. After filing a complaint or grievance, I received a response.	26%	14%	4%	56%
7. I received responses and resolution to my complaint or grievance in a timely manner.	21%	16%	6%	56%
8. When I filed a complaint or grievance, I was satisfied with the response.	14%	17%	10%	59%
9. I know how to file an appeal if I'm not satisfied with the outcome.	49%	15%	18%	18%
10. If I have a complaint or grievance, I am confident that the Department of Criminal Justice will address it appropriately and fairly.	50%	27%	18%	5%
11. I feel the employee complaint and grievance system works in the Department of Criminal Justice.	40%	32%	18%	9%

<sup>a</sup> Respondents who agreed or strongly agreed with an individual survey statement were grouped together in the "Agree" column.

<sup>b</sup> Respondents who disagreed or strongly disagreed with an individual survey statement were grouped together in the "Disagree" column.

Note: The percentages do not all sum to 100 percent due to rounding.

## ***Department of Criminal Justice Prison Units and State Jails (State-Operated and Privately Operated)***

There are 66 state-operated prison units and state jails and 12 privately operated prison units and state jails. Table 22 lists the prison units' and state jails' (units) offender capacity and population and number of employees (budgeted and actual). See Figure 1 on page 61 for a map of the units. There are additional state-operated and privately operated facilities, such as pre-parole transfer facilities, intermediate sanction facilities, and substance abuse facilities, that were not included in the list because auditors did not consider them for site visits.

Auditors conducted site visits and administered surveys at the following units:

- Allred Unit.
- Bridgeport Correctional Center.
- Clements Unit.
- Dominguez State Jail.
- Mountain View.
- Murray Unit.
- Neal Unit.

Table 22

Offender Population and Employees at Department of Criminal Justice Prison Units and State Jails (as of February 29, 2008)								
Map Number	Unit Name	Type	County	Region	Offender Capacity	Offender Population	Budgeted Employees	Actual Employees
1	Allred	Prison	Wichita	V	3,682	3,602	978.0	872.0
2	Bartlett	Private State Jail	Williamson	Private	1,049	1,047	224.0	177.0
3	Beto	Prison	Anderson	II	3,471	3,321	781.0	514.0
4	Boyd	Prison	Freestone	II	1,330	1,327	290.0	247.0
5	Bradshaw	Private State Jail	Rusk	Private	1,980	1,963	285.0	238.0
6	Bridgeport	Private Prison	Wise	Private	520	520	113.5	82.5
7	Briscoe	Prison	Frio	IV	1,342	1,335	295.0	257.0
8	Byrd	Prison	Walker	I	1,365	1,007	293.0	267.0
9	Central	Prison	Fort Bend	III	1,060	994	288.0	266.0
10	Clemens	Prison	Brazoria	III	1,215	1,073	342.0	283.0

**Offender Population and Employees at Department of Criminal Justice Prison Units and State Jails**  
(as of February 29, 2008)

Map Number	Unit Name	Type	County	Region	Offender Capacity	Offender Population	Budgeted Employees	Actual Employees
11	Clements	Prison	Potter	V	3,714	3,582	1077.0	883.0
12	Cleveland	Private Prison	Liberty	Private	520	520	124.8	97.8
13	Coffield	Prison	Anderson	II	4,139	4,085	1000.0	656.0
14	Cole	State Jail	Fannin	II	900	803	216.0	210.0
15	Connally	Prison	Karnes	V	2,848	2,833	719.0	524.0
16	Dalhart	Prison	Hartley	V	1,040	1,022	295.0	203.0
17	Daniel	Prison	Scurry	V	1,342	1,321	309.0	238.0
18	Darrington	Prison	Brazoria	III	1,931	1,868	576.0	476.0
19	Dawson	Private State Jail	Dallas	Private	2,216	2,183	426.0	377.0
20	Diboll	Private Prison	Angelina	Private	518	517	131.0	121.0
21	Dominguez	State Jail	Bexar	IV	2,276	2,072	371.0	334.0
22	Eastham	Prison	Houston	I	2,474	2,447	746.0	491.0
23	Ellis	Prison	Walker	I	2,404	2,355	681.0	538.0
24	Estelle	Prison	Walker	I	3,273	3,154	980.0	701.5
25	Estes	Private Prison	Johnson	Private	1,040	1,037	198.1	163.1
26	Ferguson	Prison	Madison	I	2,421	2,369	696.0	459.0
27	Formby	State Jail	Hale	V	1,100	932	268.0	249.0
28	Gatesville	Prison	Coryell	VI	2,115	2,007	691.0	660.0
29	Gist	State Jail	Jefferson	III	2,276	2,146	372.0	324.0
30	Goree	Prison	Walker	I	1,321	999	357.0	317.0
31	Henley	State Jail	Liberty	III	576	564	122.0	114.0
32	Hightower	Prison	Liberty	III	1,342	1,317	328.0	295.0
33	Hilltop	Prison	Coryell	VI	553	521	253.0	245.0
34	Hobby	Prison	Falls	VI	1,342	1,294	310.0	309.0
35	Hughes	Prison	Coryell	VI	2,900	2,857	723.0	677.0
36	Huntsville	Prison	Walker	I	1,705	1,692	451.0	375.5
37	Hutchins	State Jail	Dallas	II	2,276	2,045	386.0	347.0
38	Jester III	Prison	Fort Bend	III	1,131	1,037	275.0	255.0
39	Jordan	Prison	Gray	V	1,008	992	267.0	211.5
40	Kegans	State Jail	Harris	III	667	574	160.0	145.0
41	Kyle	Private Prison	Hays	Private	520	518	106.0	85.0
42	Lewis	Prison	Tyler	I	2,190	2,164	576.0	498.5
43	Lindsey	Private State Jail	Jack	Private	1,031	1,022	217.0	171.0
44	Lockhart	Private Prison	Caldwell	Private	500	498	186.4	145.4
45	Lopez	State Jail	Hidalgo	IV	1,100	1,001	262.0	237.0



**Offender Population and Employees at Department of Criminal Justice Prison Units and State Jails**  
(as of February 29, 2008)

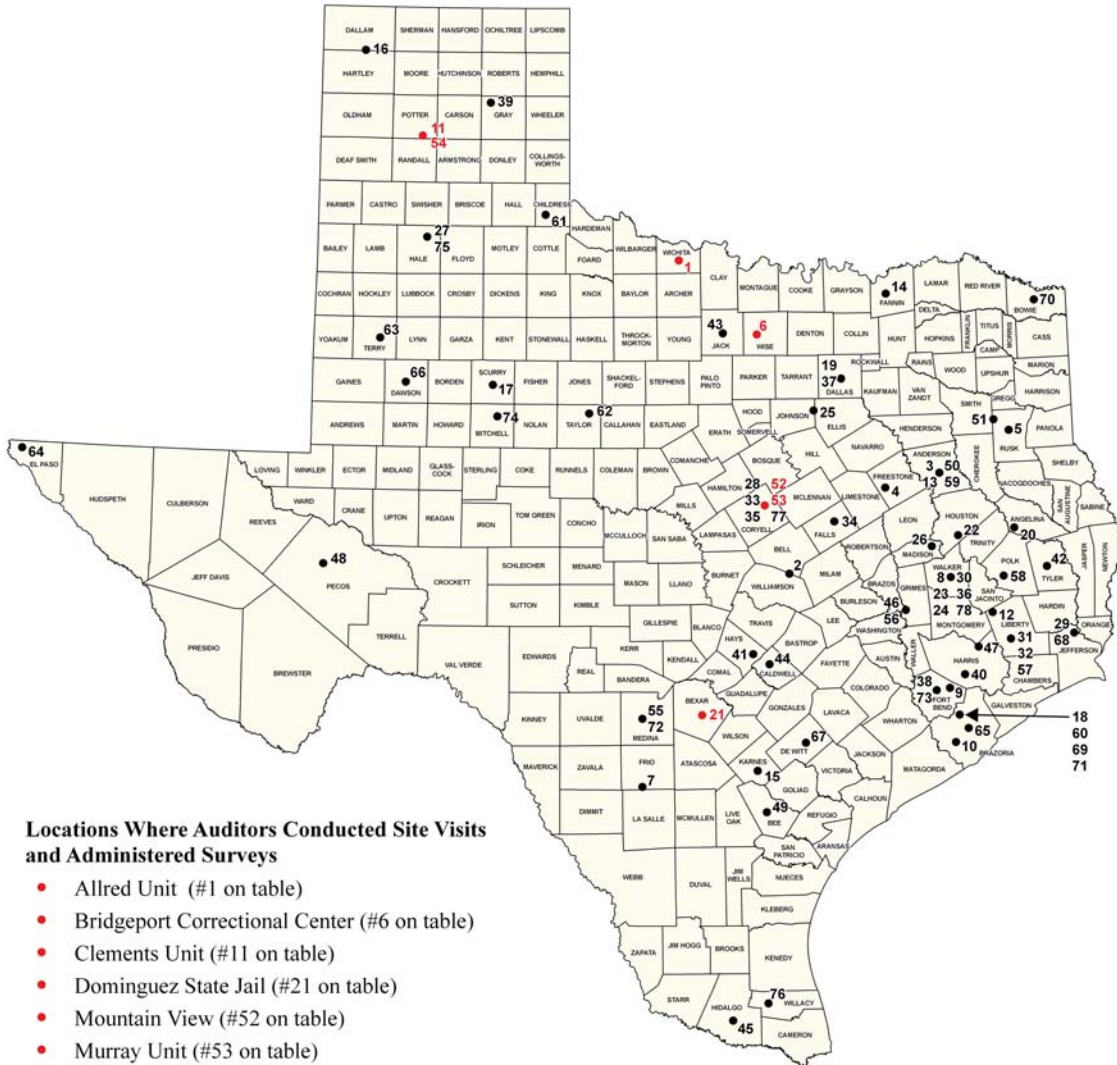
Map Number	Unit Name	Type	County	Region	Offender Capacity	Offender Population	Budgeted Employees	Actual Employees
46	Luther	Prison	Grimes	VI	1,316	1,262	306.0	273.5
47	Lychner	State Jail	Harris	III	2,276	2,045	396.0	351.0
48	Lynaugh	Prison	Pecos	IV	1,374	1,347	292.0	205.5
49	McConnell	Prison	Bee	IV	2,900	2,852	755.0	517.5
50	Michael	Prison	Anderson	II	3,221	3,132	851.0	613.5
51	Moore, B.	Private Prison	Rusk	Private	500	498	130.0	106.0
52	Mountain View	Prison	Coryell	VI	645	600	298.0	288.0
53	Murray	Prison	Coryell	VI	1,313	1,251	329.0	310.0
54	Neal	Prison	Potter	V	1,690	1,677	349.0	275.5
55	Ney	State Jail	Medina	IV	576	570	131.0	112.0
56	Pack	Prison	Grimes	VI	1,478	1,428	328.0	292.0
57	Plane	State Jail	Liberty	III	2,276	2,163	383.0	339.0
58	Polunsky	Prison	Polk	I	2,900	2,881	761.0	612.0
59	Powledge	Prison	Anderson	II	1,137	1,061	296.0	279.0
60	Ramsey	Prison	Brazoria	III	1,891	1,689	430.0	366.0
61	Roach	Prison	Childress	V	1,842	1,443	300.0	271.5
62	Robertson	Prison	Jones	VI	2,900	2,869	740.0	690.5
63	Rudd	Prison	Terry	V	612	605	142.0	136.0
64	Sanchez	State Jail	El Paso	IV	1,100	1,004	270.0	242.0
65	Scott	Prison	Brazoria	III	1,130	1,033	296.0	244.0
66	Smith	Prison	Dawson	V	2,125	2,084	595.0	442.0
67	Stevenson	Prison	DeWitt	IV	1,342	1,338	291.0	263.0
68	Stiles	Prison	Jefferson	III	2,897	2,881	735.0	610.5
69	Stringfellow	Prison	Brazoria	III	1,212	1,118	303.0	265.0
70	Telford	Prison	Bowie	II	2,832	2,807	699.0	606.0
71	Terrell	Prison	Brazoria	III	1,603	1,541	401.0	354.0
72	Torres	Prison	Medina	IV	1,342	1,330	295.0	257.0
73	Vance	Prison	Fort Bend	III	378	294	110.0	106.0
74	Wallace	Prison	Mitchell	V	1,502	1,369	312.0	224.0
75	Wheeler	State Jail	Hale	V	576	543	122.0	118.0
76	Willacy County	Private State Jail	Willacy	Private	1,069	1,064	205.0	163.0
77	Woodman	State Jail	Coryell	VI	900	846	237.0	236.0
78	Wynne	Prison	Walker	I	2,621	2,588	699.0	532.5

Source: Department of Criminal Justice.

Figure 1

Prison Units and State Jails in Texas

**Location of Prison Units and State Jails  
(State-Operated and Privately-Operated)**



08/01/08 08R2756



Source: Texas Department of Criminal Justice

## ***Safe Prisons Program Office Reporting Information***

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The Safe Prisons Program Office reports Safe Prisons Program activity to the Department Criminal Justice's (Department) Correctional Institutions Division's executive management on a monthly basis. The Safe Prison Program Office (Office) also is responsible for analyzing and evaluating trends in extortion, sexual abuse, and other aggressive offender behavior. The Office obtains its offender protection investigation (OPI) data from the Department Classification Division's monthly report and the alleged sexual assault data from the Emergency Action Center. (See Chapter 1-D for more information about Safe Prisons Program reporting.)

As Table 23 shows, Region IV conducted the highest number of OPIs, with 6,189 of 34,436 (18 percent) OPIs conducted from September 1, 2006, through February 29, 2008. Private facilities, which include privately operated units, state jails, and other contracted facilities, conducted the fewest OPIs, with 1,314 of 34,436 (4 percent) OPIs conducted during this same time period.

Table 23

Offender Protection Investigations September 1, 2006, through February 29, 2008	
Location	Investigations conducted
Region I	3,865
Region II	6,112
Region III	5,865
Region IV	6,189
Region V	5,067
Region VI	6,024
Private Facilities	1,314
<b>Total</b>	<b>34,436</b>

Source: Safe Prisons Program Office.

Region VI reported the highest number of alleged sexual assaults, with 192 of 836 (23 percent) alleged sexual assaults reported from September 1, 2006, through February 29, 2008 (see Table 24). The private facilities reported the fewest alleged sexual assaults, with 13 (2 percent) of all alleged sexual assaults reported during this same time period.

Table 24

Alleged Sexual Assaults Reported to Safe Prisons Program Office September 1, 2006, through February 29, 2008	
Location	Alleged Sexual Assaults Reported
Region I	109
Region II	176
Region III	145
Region IV	62
Region V	139
Region VI	192
Private Facilities	13
<b>Total</b>	<b>836</b>

Source: Safe Prisons Program Office.

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The Honorable Jim Keffer, House Ways and Means Committee

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