



Texas Department of Criminal Justice

Brad Livingston
Executive Director

Prison Rape Elimination Act Testimony

April 26 - 27, 2011

Good morning/afternoon, my name is Brad Livingston and I am the Executive Director for the Texas Department of Criminal Justice (TDCJ). I am here today representing both the TDCJ and our governing body, the Texas Board of Criminal Justice. On behalf of both entities, I want to thank you for allowing me to testify today.

The TDCJ has been and will continue to be committed to operating a correctional system that is safe and secure for both offenders and staff. The agency recognizes the seriousness of sexual assault and other forms of sexual abuse in prison, and welcomes a discussion of the challenges facing the TDCJ and other correctional agencies striving to address this problem.

Please allow me to begin by describing our agency's mission and organizational structure. The TDCJ is responsible for the operation of secure correctional institutions housing felony offenders sentenced by the courts, for the direct supervision of offenders under parole, and indirectly responsible for the supervision of felony and misdemeanor probationers. I say indirectly as it relates to probationers because the TDCJ and our governing body adopts rules, standards, allocates funding and provides training; however, supervision is performed by employees of local community supervision and corrections departments, not by state employees.

Our mission is to provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime.

P.O. Box 99
Huntsville, Texas 77342-0099
(936) 437-2101
www.tdcj.state.tx.us

The Texas Board of Criminal Justice (TBCJ), comprised of nine public members appointed by the Governor, serves as a policy making and oversight body and appoints the Executive Director, who is responsible for the day-to-day operation of the agency. The board members, who receive compensation for expenses but no salaries, are also supported by a small administrative staff, as well as the Office of the Inspector General, the Internal Audit Division and the Prison Rape Elimination Act (PREA) Ombudsman. The Office of the Inspector General consists primarily of licensed peace officers who investigate allegations of criminal conduct and serious violations of agency policy, to include allegations of sexual assault. The Inspector General is appointed by and reports to the TBCJ. Likewise, the Internal Audit Division consists of professional staff who audit the agency's operations and the Internal Auditor is also appointed by and reports to the TBCJ. The PREA Ombudsman monitors the agency's efforts to eliminate sexual assaults and responds to public inquiries regarding allegations of sexual assault in the TDCJ correctional facilities.

I should emphasize the important role played by the Office of the Inspector General in investigating allegations of sexual assault and the role of the Special Prosecution Unit, another independent entity, in prosecuting sexual assault cases. While I am not going to discuss their roles in detail because you have Mr. Moriarty and Ms. Debottis scheduled to testify in these proceedings, these entities, independent of the agency's administration, are a critical part of the state's efforts to prevent, investigate and prosecute sexual assault within the prison system.

I want to also note the actions of the Texas Legislature. Prior to the enactment of PREA, the Texas Legislature mandated a safe prisons program in the TDCJ to address offender sexual assault. Although our agency had the relevant policies and procedures in place

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prior to legislative action; it demonstrated their recognition of the challenge we face. In 1999, the TDCJ suggested, and the Texas Legislature enacted, a law which made it a felony offense for an employee or other individual to have consensual sex with an offender in custody. In 2007, the legislature codified our agency's administrative policy of zero tolerance towards sexual assault and also created the PREA Ombudsman position within our agency. This action further demonstrates the ongoing interest and concern the Texas Legislature has regarding this issue. Although not directly addressing the issue of sexual assault, let me quickly add that in recent years the Texas Legislature has approved a substantial expansion of programs intended to reduce recidivism and divert offenders from incarceration, which in combination with other factors has addressed what was projected to be a significant growth in the offender population. In 2009, the Texas Legislature approved 10 million dollars in security equipment for the agency which has allowed the agency to make security enhancements including comprehensive video systems at three maximum security units.

The Bridgeport Pre-Parole Transfer facility is a 200 bed female minimum security facility under contract with TDCJ that is owned and operated by Corrections Cooperation of America. As a contracted facility they are required to follow the TDCJ Safe Prison Program and its related policy and the facility is monitored by the TDCJ Private Facility Monitoring and Oversight Division. The female offenders that are housed in this facility are classified as minimum custody offenders and are typically within two years or less of their release and the average stay for offenders at the unit is 206 days. This facility has enhancements such as digital video recording (DVR) cameras in each housing area, a SAFE Prison Coordinator and has worked diligently to ensure staff and offenders are trained in the TDCJ Safe Prisons Program and the agency's zero tolerance policy.

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The TDCJ Allred Unit is a 3,682 bed maximum security unit and has 1,048 employees. The unit houses a variety of custody levels and has a design that is similar in nature to other maximum security facilities constructed during the 1990's in our system. The Allred Unit has had a Safe Prison Coordinator position on staff since 2005.

The Allred Unit management team has been actively engaged in the implementation and refinement of the safe prison program and has made several unit specific enhancements to the program over the past two years, and also implemented several agency-wide initiatives which contribute to a safe prison environment. These Allred specific enhancements include the installation of additional DVR camera systems in two housing areas to help prevent acts of violence, sexual assault or extortion and aid in the investigative process of incidents. They have also installed additional metal detectors, parcel scanners and body orifice security scanners and have created a unit contraband shakedown team that assist in decreasing contraband, all of which help reduce trafficking and trading and other violations that can lead to predatory behaviors and extortion. The recent installation of an offender telephone system also facilitates offender communication with family and friends. The unit continues to focus on ensuring that all staff and offenders are fully aware of the Safe Prisons Program and the agency's zero tolerance policy and reporting methods.

I recognize that you have numerous questions regarding the Bureau of Justice Statistics survey provided from offenders at these units; please allow me to take a few minutes to briefly discuss how the agency's policies and organization address sexual victimization in the correctional environment before fielding your questions.

From the time an offender enters our system and an individual accepts employment with our agency, we communicate our expectations for behavior and our mechanisms for

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reporting behavior in violation of our standards of conduct. The offender population receives an orientation and a handbook addressing numerous issues relating to incarceration. A significant focus of the orientation curriculum is the issue of alleged sexual assaults and correlating behaviors such as extortion or gang membership which may lead to assaults. Additionally, offenders are provided with brochures regarding the Safe Prison Program and are interviewed by the unit Safe Prison Program Coordinator at intake and again upon permanent assignment to a unit, helping them to understand the Safe Prison Program on that facility. Posters documenting the agency's zero-tolerance standard and contact information to report incidents are posted in prominent unit locations. Employees receive pre-service and in-service training, both of which provide specific curriculum related to PREA and our Safe Prison Program. Each employee also receives our ethics policy and standards of conduct, for which he or she must acknowledge receipt in writing. All employees are also provided a toll free phone number for the Office of the Inspector General to report criminal violations as well as waste, fraud and abuse.

The organizational structures in place for receiving and investigating allegations of physical and sexual misconduct, include the grievance system, the agency ombudsman, PREA Ombudsman, the administrative monitor for use of force, as well as direct reports to the Office of the Inspector General. None of these agency administrative functions report to the division responsible for prison operations. In addition, allegations of sexual assault can be reported to any TDCJ employee. By policy that employee is required to act on the allegation. There are also many individuals at the units who do not work for the TDCJ, to include, health care providers, Windham School District personnel, contract personnel or agency volunteers, to whom offenders may choose to report allegations.

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Our Safe Prisons Program involves a coordinated effort to integrate education, training, classification, security, monitoring medical and investigative functions in a manner which promotes offender safety. It contains many elements that may be common in most prison systems such as the use of an offender classification system to place offenders in appropriate custody and housing assignments; an administrative process for investigating allegations of life endangerment and other threats to safety which includes separating the offender from the general population while the allegation is investigated; the use of housing and work reassignments, unit transfers, safekeeping status, protective custody and in some rare cases interstate transfers to enhance offender safety; the reporting, tracking and analysis of alleged sexual assaults and other serious incidents; and utilization of psychologists, classification case managers, chaplains or social workers to serve as victim representatives during forensic medical examinations. The TDCJ has also benefited from several grant awards received from the Office of Justice Programs which have been used for a variety of purposes including the purchase of additional surveillance cameras and the hiring of a certified Sexual Assault Nurse Examiner to coordinate sexual assault examinations.

In conclusion, the TDCJ, the TBCJ and I are personally committed to providing a safe environment for offenders and staff. While I am disappointed to see the survey responses from offenders in the Allred Unit, particularly given the extensive efforts made to encourage reporting, I understand the reasons for providing anonymity to the respondents; however, it does limit the ability of this agency or the Office of the Inspector General to investigate and address the allegations.

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