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An Audit Report on

Monitoring and Enforcement Functions at the Juvenile Probation Commission

August 2007
Report No. 07-047



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Overall Conclusion

The Juvenile Probation Commission (Commission) has taken corrective action on 32 of 34 (94 percent) of the recommendations related to monitoring and enforcement identified in *An Audit Report on the Juvenile Probation Commission* (State Auditor's Office Report No. 02-060, July 2002).

The Commission has developed an automated system to facilitate the monitoring of standards and contracts with local juvenile boards. The Compliance Monitoring, Enforcement and Tracking System (COMETS) has allowed the Commission to address the majority of weaknesses in its monitoring and enforcement processes identified in the previous audit report. COMETS also has enabled the Commission to move from a paper file environment to an almost completely computerized process.

Table 1 on page 2 of the Detailed Results section of this report summarizes the status of the Commission's implementation of prior audit recommendations, and Table 2 on page 2 provides information on the status of the implementation of specific recommendations.

Additionally, auditors visited four juvenile probation departments and determined that all of them were conducting criminal history checks for employees in accordance with applicable laws and regulations. However, auditors identified weaknesses in two departments' processes for documenting grievances. At two departments, auditors also identified weaknesses in the processes for reporting and investigating allegations of abuse, neglect, and exploitation.

Summary of Management's Response

The Commission agrees with the recommendations in this report.

Background Information

The Juvenile Probation Commission (Commission), created in 1981, allocates nearly \$200 million biennially to local juvenile probation departments through multiple contracts and grants to each of 169 local juvenile boards.

The Commission monitors 52 secure facilities for juveniles awaiting trial and 32 secure facilities for juveniles convicted and sentenced to a Juvenile Probation Commission facility. During fiscal year 2006, 72,989 juveniles were on probation or resided in these pre- and post-adjudication facilities.

The Commission conducts official investigations of all allegations of child abuse, neglect, and exploitation in its secure juvenile facilities and in any program operated by a probation department or under a contract with a juvenile board.

Source: Juvenile Probation Commission.

Summary of Information Technology Review

Information technology audit work focused on COMETS; CASEWORKER, an automated tracking and case management system provided by the Commission to all juvenile probation departments; the Abuse, Neglect, and Exploitation (ANE) Database; and the Automated Certification Information Tracking System (ACIS). Auditors also reviewed the Commission's disaster recovery plan.

The Commission has adequate controls to ensure that access to these systems is limited to specific personnel whose responsibilities require use of these automated systems. Auditors reviewed the list of staff who have access, and all of them were still active employees with a need for this access. This significantly lowers the risk that unauthorized individuals will view secure information. In addition, the Commission has developed software applications that support its business functions and protect the integrity of its data.

The Commission's disaster recovery plan did not include all required elements, nor was there any record of the plan having been recently tested. This could result in the Commission losing vital information needed to carry out its functions in the event of an emergency.

Summary of Objective, Scope, and Methodology

The objective of this audit was to determine whether the Commission has taken corrective action on significant issues in monitoring and enforcement identified in *An Audit Report on the Juvenile Probation Commission* (State Auditor's Office Report No. 02-060, July 2002).

The scope of this audit included COMETS data, ACIS data, and ANE data for fiscal year 2006 and the first and second quarters of fiscal year 2007.

The audit methodology included collecting information; conducting interviews with Commission staff, juvenile probation departments, and juvenile facility personnel; performing selected tests and other procedures; and analyzing and evaluating the results of the tests. Auditors also visited and tested files at four juvenile probation departments for compliance with state-mandated standards for criminal history checks, juvenile grievances, and investigations of abuse, neglect, and exploitation allegations.

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Detailed Results

Chapter 1

The Commission Has Made Significant Progress in Implementing Prior Audit Recommendations Regarding Its Monitoring and Enforcement Functions

The Juvenile Probation Commission (Commission) has taken corrective action on 32 of 34 (94 percent) of the audit recommendations related to monitoring and enforcement identified in *An Audit Report on the Juvenile Probation Commission* (State Auditor's Office Report No. 02-060, July 2002). Auditors followed up on 34 of the 40 recommendations made in the prior audit report. In addition, auditors visited four juvenile probation departments (departments) to review compliance with state-mandated standards for criminal history checks, juvenile grievances, and investigations of abuse, neglect, and exploitation allegations (see Chapter 2).

The Commission has fully implemented 19 of 34 (56 percent) recommendations related to monitoring and enforcement; it has substantially implemented 8 others. The Commission has not implemented two recommendations, and its implementation of five others remains incomplete or ongoing.

The most significant improvement made by the Commission in response to prior audit recommendations is the implementation of the Compliance Monitoring, Enforcement and Tracking System (COMETS). This automated system, which the Commission reported that it developed in-house and without additional resources, has allowed the Commission to address the majority of weaknesses in its monitoring and enforcement functions identified in the previous audit report. The system also has enabled the Commission to move from a paper-file environment to a monitoring and enforcement process that is almost completely computerized. COMETS tracks all monitoring reports issued to the departments. These reports list all standards reviewed during a monitoring visit, the departments' score, and the status of each standard (compliant or noncompliant). The system also includes the departments' plans of action for noncompliant standards.

Full implementation of all the prior and new recommendations would correct weaknesses in the Commission's monitoring and enforcement functions. Table 1 summarizes the status of the Commission's implementation of recommendations and defines the degrees of implementation.

Status of Prior Audit Recommendations Related to the Commission's Monitoring and Enforcement Functions

The State Auditor's Office followed up on the implementation status of 34 prior audit recommendations related to the Commission's monitoring and enforcement functions. The State Auditor's Office originally made these recommendations in *An Audit Report on the Juvenile Probation Commission*, (SAO Report No. 02-060, July 2002).

Table 1

Definition of Degrees of Implementation of Prior Audit Recommendations		
Degree of Implementation	Definition	Number of Prior Audit Recommendations in Category
Fully Implemented	Successful development and use of a process, system, or policy to implement a prior recommendation.	19
Substantially Implemented	Successful development but inconsistent use of a process, system, or policy to implement a prior recommendation.	8
Incomplete/Ongoing	Ongoing development of a process, system, or policy to address a prior recommendation.	5
Not Implemented	Lack of a formal process, system, or policy to address a prior recommendation.	2

Table 2 provides information on the implementation status of specific recommendations made in the State Auditor's Office July 2002 report.

Table 2

Status of the Commission's Implementation of Prior Audit Recommendations Related to Monitoring and Enforcement		
Recommendation	Implementation Status	Auditor Comments
Establish objective criteria for when to impose sanctions for violations of state juvenile probation standards. At a minimum, a department's compliance history should be one factor the Commission considers when establishing criteria for imposing sanctions for health and safety violations.	Incomplete/Ongoing	The Commission has established criteria for when to impose sanctions for violations of state juvenile probation standards. However, the criteria are still in draft form and have not been approved by executive management or the board.
Amend the Texas Administrative Code to allow the Commission to initiate revocation of certification for all ethics violations involving abuse and neglect.	Fully Implemented	The Commission amended Title 37, Texas Administrative Code, with Section 349.22 effective September 1, 2003.
Formulate criteria for imposing sanctions for departments that employ non-certified individuals who are designated as a perpetrator in a Commission abuse and neglect investigation.	Substantially Implemented	The Commission has not formulated criteria for imposing sanctions for departments that employ non-certified individuals who are designated as a perpetrator in a Commission abuse and neglect investigation. However, the Commission has implemented one sanction, a contract provision, that could be used if a department employs non-certified individuals who are designated as a perpetrator.
Formulate formal procedures to require appropriate Commission staff members to follow up on the certification and employment status of individuals who are designated as perpetrators in a Commission abuse and neglect investigation.	Incomplete/Ongoing	The Commission has not formulated formal procedures to require appropriate Commission staff members to follow up on the certification and employment status of individuals who are designated as perpetrators in a Commission abuse and neglect investigation. The Commission does have processes for following up on individuals who

**Status of the Commission's Implementation of Prior Audit Recommendations
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Recommendation	Implementation Status	Auditor Comments
		<p>are designated as perpetrators, but the form and level of follow-up is determined on a case-by-case basis. Without documented policies and procedures for following up on the certification and employment status of individuals who are designated as perpetrators, the Commission could provide high-risk individuals the opportunity to move to another county and continue to have interaction with juveniles.</p>
<p>Monitor the timeliness of the abuse and neglect function to determine whether additional staffing measurably reduces the time required to meet deadlines.</p>	<p>Not Implemented</p>	<p>The Commission does not track the length of time it takes to complete investigations of abuse, neglect, and exploitation allegations; review outstanding investigations; or conduct a supervisory review of completed investigations with a disposition other than "reason to believe." Auditors reviewed 30 abuse, neglect, and exploitation allegations and found:</p> <ul style="list-style-type: none"> ▪ 12 of 30 (40 percent) allegations were not reported to law enforcement within 24 hours of receipt, as required by Title 37, Texas Administrative Code, Section 349.46(a). The Commission reported these 12 allegations to law enforcement from a few hours to 41 days past the 24-hour requirement, with most of the 12 being reported two to four days after receipt of the allegation. ▪ 7 of 30 (23 percent) allegations were not investigated in a timely manner. While there are no documented timelines for the Commission's investigation process, a review of case notes showed significant delays in the performance of specific investigation activities, such as reviewing the departments' internal investigation reports or notifying the departments of the outcomes of investigations.
<p>Dedicate sufficient resources to ensure that the abuse and neglect database is updated in a timely manner.</p>	<p>Incomplete/Ongoing</p>	<p>The Commission does not regularly update the Abuse, Neglect, and Exploitation Database (database). Of 30 abuse, neglect, and exploitation investigations reviewed by auditors:</p> <ul style="list-style-type: none"> ▪ The first case entries made in the database ranged from the day the allegation was received to 89 days later. ▪ The database was not regularly updated for 7 of 30 (23 percent) investigations as new information was received or uncovered. <p>The Commission does not have documented timeframes for when and how often the database should be updated. The database is the primary tool used by the Commission to track the status of investigations; therefore, it is critical that the database is regularly updated to prevent the loss of investigation information.</p> <p>The database also has a delete function that completely erases an investigation file from the database and the file cannot be recovered. The Commission does not track which files are deleted, and all users have the ability to delete any file from the database.</p>
<p>Operationally define which juvenile probation standards are related to health and safety. Violations of health and safety standards should be more heavily weighted when the Commission considers imposition of sanctions and conducts risk assessment for monitoring visits.</p>	<p>Fully Implemented</p>	<p>The Commission operationally defined which juvenile probation standards are related to the health and safety of juveniles, and it weights violations of health and safety standards more heavily when it considers imposition of sanctions and conducts risk assessment for monitoring visits.</p>
<p>Issue citations for and report all identified instances of noncompliance to the chief probation officer and local probation board overseeing the department.</p>	<p>Substantially Implemented</p>	<p>The Commission's policies and procedures contain steps describing how compliance and noncompliance should be documented in its automated monitoring and reporting system. However, monitors do not appear to consistently follow these policies and procedures.</p> <p>The Commission does not consistently issue citations for and report all identified instances of noncompliance to the chief probation officer and local juvenile board overseeing the department. Of 33 monitoring reports reviewed by auditors:</p>

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		<ul style="list-style-type: none"> ▪ 12 of 33 (36 percent) reports had instances of noncompliance in the supporting documentation but not in the Commission's automated monitoring and reporting system (COMETS). ▪ 12 of 33 (36 percent) reports had instances of noncompliance but no citation was issued. <p>According to the Commission, changes are sometimes made during the exit conference with a department. The reasons for the changes were not consistently documented. The Commission does not perform a supervisory review of monitoring reports or supporting documentation.</p>
Establish and enforce a reasonable standard for the timeliness of issuing monitoring reports to the departments.	Substantially Implemented	The Commission established a standard of issuing monitoring reports to departments at the end of a monitoring visit and while the monitor is still on site. However, this standard is not documented.
Examine and address any underlying systemic reasons (for example, employee turnover, workloads, and training) that cause delays in completing and delivering monitoring reports to the departments and local juvenile probation boards.	Fully Implemented	The Commission addressed delays in completing and delivering monitoring reports by creating COMETS, which enables monitors to create a draft report while at a department. COMETS also allows the monitors, while still on site, to discuss the noncompliance issues with the departments, make any changes to the report, and upload it.
Consider providing the Commission board with periodic reports regarding summary trends in compliance with standards.	Fully Implemented	The Commission provides high-level summaries to the board.
Use a database to compile the results of monitoring efforts. At a minimum, the database should track the elements on the Commission's citation tracking form. The database should be designed to capture the current status of any corrective action agreed to by the departments. It should also be able to provide aggregate and department level statistics on the number, type, and disposition of instances of noncompliance, regardless of whether a citation was issued. Design of the database should also consider information needs related to the Commission's risk assessment process. The Commission should also consider tracking the results of unannounced monitoring visits, findings related to abuse and neglect investigations, and suspension or revocation of officer certification.	Fully Implemented	The Commission created COMETS to include a database that compiles results of its monitoring efforts. Aggregate and department-level statistics on the number, type, and disposition of instances of noncompliance can be generated. The risk assessment is also included in the system, and different risk assessment reports can be generated based on the area to be monitored (for example, pre- or post-adjudication facilities and probation administration). The system tracks the results of unannounced monitoring visits; however, it does not track findings related to abuse, neglect, and exploitation investigations, or suspension or revocation of officer certifications because other databases and systems are used to track those findings.
Clearly assign responsibility for tracking the status of citations, waivers, corrective action plans, and contested citations. The Commission's follow-up efforts should factor into the design of a database for the monitoring function described in the previous recommendation.	Fully Implemented	The Commission clearly assigns responsibility for and tracks the status of citations, waivers, corrective action plans, and contested citations through COMETS and by designating specific staff. Twenty of 21 (95 percent) closed reports reviewed by auditors had supporting documentation indicating that the corrective action plans were completed by the departments and approved by the Commission. However, there were no policies and procedures for the corrective action process at the department and Commission levels.
Specify in its procedures how standards should be verified. The Commission should use the most reliable method for verifying departments' compliance. For example, cost per day could be verified by analyzing department billing records, and staffing ratios could be verified using payroll records.	Fully Implemented	The Commission developed procedures that specify how each standard should be verified using the most reliable method for verifying departments' compliance
Reevaluate the risk assessment methodology and incorporate operational risk factors such as compliance history.	Substantially Implemented	The Commission used a risk assessment process to determine which counties and areas within the counties to monitor and at which to conduct on-site visits in fiscal years 2006 and 2007. However, the risk assessment uses only one risk factor—compliance history—and does

**Status of the Commission's Implementation of Prior Audit Recommendations
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Recommendation	Implementation Status	Auditor Comments
		not consider other factors, such as the amount of time since the previous visit. Currently the Commission is required to visit every pre- and post-adjudication facility in Texas once a biennium. Beginning in fiscal year 2008, the Commission will be required to visit every pre- and post-adjudication facility in Texas every year. The increase in required monitoring visits and limited resources will make it even more important for the Commission to use more risk factors in determining which departments and areas to monitor in addition to the pre- and post-adjudication facilities.
Use a risk assessment process to determine which departments and which areas within each department represent the highest risk.	Fully Implemented	The Commission uses a risk assessment process to determine which departments and areas within the departments to monitor and at which to conduct on-site monitoring visits.
Ensure that the Field Service division verifies whether the departments actively monitor their service providers.	Fully Implemented	The Commission verifies whether departments actively monitor their service providers. Its Fiscal Division monitors review documentation during their on-site visits of departments to ensure that the departments are monitoring service providers at least twice each year.
Provide the departments with training on developing measurable, quantifiable contract terms and performance measures.	Substantially Implemented	The Commission highlights and discusses problems that it detects from monitoring and communication with departments during its annual budget workshop. However, the Commission does not provide departments with specific training on developing measurable, quantifiable contract terms and performance measure. Without sufficient training, the departments may not be creating contracts with measurable, quantifiable contract terms and performance measures and, therefore, they may not be able to hold their contractors accountable when they receive insufficient services or inferior goods.
Develop comprehensive written policies and procedures for each area of its fiscal division, as well as for any other division within the Commission that has weaknesses similar to those of the fiscal division. The policies and procedures should provide an overall understanding of the purpose of each area's function, as well as detailed descriptions of critical steps necessary to properly carry out each function. The written procedures should also include action plans for situations that may arise when departments do not comply with the Commission's procedures and rules.	Substantially Implemented	The Commission developed written policies and procedures for each division. However, for four of the six divisions, policies and procedures were not comprehensive and did not contain an overall understanding of the purpose of each area's function, detailed descriptions of critical steps necessary to properly carry out each function, and actions plans for situations when departments do not comply with the Commission's procedures and rules. The policies and procedures for two divisions were comprehensive and contained all the elements previously discussed.
Establish formal procedures to ensure that all units and divisions regularly share information essential to departments' compliance with the State's juvenile probation standards.	Incomplete/Ongoing	The Commission has not established formal procedures to ensure that all units and divisions regularly share information essential to the departments' compliance with the State's juvenile probation standards. The Commission created an automated system, the Contact Activity Tracking System (CATS), to ensure that all divisions share information. However, not all agency staff use this system and the Commission has not established formal policies and procedures that require staff to use the system.
Institute procedures to provide greater assurance that information submitted by the departments for certification purposes is accurate.	Substantially Implemented	While the Commission has established some procedures, improvements can still be made to ensure that information submitted by the departments for certification purposes is accurate. For example, there are no documented policies and procedures for the certification/recertification processes performed by the Commission. The Commission has a <i>Certification Guidelines Manual</i> , however, the manual does not describe the steps taken at the Commission to approve or deny certification/recertification.
Instead of requiring departments to provide documentation of compliance with certification standards, the Commission should require the	Fully Implemented	The Field Service division monitors are required to select a random, statistically representative sample of personnel files to test compliance with certification standards. The Commission's

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Field Service division monitors to select a random, statistically representative sample of personnel files to test compliance with certification standards.		<i>Compliance Resource Manual</i> requires monitors to select a sample size based on the county size, number of certified officers, and an "nth" (a randomly generated number).
Instead of requiring departments to provide documentation of compliance with certification standards, the Commission should institute procedures to administratively suspend or revoke the certification of officers who fail to meet minimum certification standards required by the State.	Fully Implemented	The Commission implemented Title 37, Texas Administrative Code, Section 349.22, which instituted procedures to administratively suspend or revoke the certification of officers who fail to meet minimum certification standards required by the State.
Instead of requiring departments to provide documentation of compliance with certification standards, the Commission should consider imposing other administrative requirements if a department repeatedly submits for certification officers who lack minimum qualifications. For example, the Commission could require departments with poor certification compliance records to submit supporting documentation when they apply for certification or re-certification of staff.	Substantially Implemented	Departments that repeatedly submit certification applications for officers who do not meet the minimum requirements are placed on a probationary status, which revokes their ability to submit certification and re-certification applications solely through the automated system. Departments on probationary status are required to submit paper documents of all certification requirements to the Commission's Certification Officer for a minimum of one year. While the Commission has this practice in place, the process is not documented.
Establish a comprehensive strategy for testing the integrity of data that departments submit. This strategy should include a clear objective that specifies whether the Commission's goal is to gather information on a statewide level, or whether the goal is to gather information on a departmental level. Once the objective is determined, the Commission should establish its acceptable level of accuracy. Both elements should be incorporated into the Commission's sampling methodology in order to select a statistically significant sample size that will allow the Commission to project the results of its testing to the entire population of data.	Fully Implemented	The Commission established a comprehensive strategy—Chapter 341 Data of the <i>Compliance Resource Manual</i> —for testing the integrity of data that departments submit. The strategy has clear objectives and the acceptable levels of accuracy for each standard (if applicable to the testing of the standard). The sampling methodology is also detailed in the <i>Compliance Resource Manual</i> , and the Commission uses a software application to select a random sample that is significant in size.
Include the Program Type data field in data testing at the departments.	Fully Implemented	The Program Type data field is included in Chapter 341 of the <i>Compliance Resource Manual</i> , which covers data integrity testing at the departments.
Focus efforts on identifying the systemic problems that lead to the data errors identified during field monitor on-site testing, and dedicate resources to solving those problems to prevent future errors.	Fully Implemented	Field Services' monitors visited all 169 juvenile probation departments in fiscal years 2004 and 2005 and tested the departments' juvenile data. Based on this, the Commission's executive management decided to stop data integrity testing during field visits and instead rely on edit checks completed at the Commission. According to the Commission, the edit checks have been more beneficial in discovering data errors than the field visits.
Determine a way to provide accurate information for the Average Cost per Day for Intensive Supervision Programs performance measure.	Fully Implemented	The Commission changed its methodology for calculating the Average Cost per Day for Intensive Supervision Programs performance measure. In fiscal years 2006 and 2007, the Commission calculated the performance measure using data from all counties and provided more accurate information for the performance measure.
Regularly report the results of data integrity testing during Board meetings. Also consider posting the results of this testing on the Commission's Web site in an effort to hold the departments more accountable for data integrity.	Incomplete/Ongoing	The Commission is not consistently providing information to the Board concerning data integrity. The Commission stopped conducting data integrity testing after fiscal year 2005, and has added new edit and reasonableness checks. The results of the edit and reasonableness checks are not consistently reported to the Board.

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<p>Develop written procedures to formalize system development processes. At a minimum, written procedures should include:</p> <ul style="list-style-type: none"> ▪ Detailed system development procedures requiring sign-off from the responsible parties throughout the course of the development project. ▪ The development of a master plan prior to the start of a project to identify system interdependencies. 	Fully Implemented	<p>The Commission developed and documented formal software development project management guidelines. Individual project documentation for systems (Caseworker and COMETS) is also available. Subsequent software development projects have followed recommended methodologies.</p>
<p>Retain system design documentation (in addition to program source code) to assist programmers in gaining an understanding of the Commission's automated systems. The Commission should develop written guidelines identifying the types of documentation programmers should retain, and these guidelines should be included into the Management Information Systems division's policies and procedures manual.</p>	Fully Implemented	<p>The Commission's policy and procedures include this requirement. The documentation of the systems (Caseworker and COMETS) contains the required elements. Subsequent software development projects retained recommended documentation.</p>
<p>Prevent programmers from moving programs from the test environment to production. To reduce the risk that programmers could introduce flawed programs into the production environment, an independent staff member in the Management Information Systems division should be responsible for moving all programs to the production environment. This requirement should be added to the existing policy for application development standards.</p>	Fully Implemented	<p>The Commission implemented a formal change control process. However, some minor changes are still performed ad hoc directly to production applications. The changes are limited to spelling errors and other minor mistakes.</p>
<p>Restrict programmers' access to production data.</p>	Not Implemented	<p>Due to the small size of the Commission's information technology shop, this is still an issue. One technician is a programmer, database administrator, and network administrator.</p>
<p>Involve the Commission's internal auditor in the system design process. The internal auditor should participate in reviewing major system development projects and general system controls.</p>	Fully Implemented	<p>Development of the COMETS application used a formal process that involved the internal auditor's and end-users' input. The application has audit trails.</p>

Recommendations

The Commission should develop, document, or implement:

- Criteria for objectively imposing sanctions for violations of state juvenile probation standards.
- Criteria, as well as written policies and procedures, for imposing sanctions on departments that employ noncertified individuals who are designated as a perpetrator in a Commission abuse, neglect, and exploitation investigation.

- Written policies and procedures that require appropriate Commission staff members to follow up on the certification and employment status of individuals who are designated as perpetrators in a Commission abuse, neglect, and exploitation investigation.
- Timelines for when and how often information should be entered into the Commission's Abuse, Neglect, and Exploitation Database.
- Written policies and procedures that describe (1) when a compliance or non-compliance should be issued and (2) when and how to issue monitoring reports to the departments.
- Additional risk factors, such as the amount of time since the previous visit or number of certified officers, in the risk assessment process for local probation departments and certification/recertification.
- Comprehensive written policies and procedures, covering all divisions, that provide an overall understanding of the purpose of each area's function, as well as detailed descriptions of critical steps necessary to properly carry out each function. The written procedures also should include action plans for situations that may arise when departments do not comply with the Commission's procedures and rules.
- Written policies and procedures requiring staff to communicate information that is essential to the probation departments' compliance with standards between all divisions (using the Contact Activity Tracking System, CATS). Specifically, the Commission should emphasize the importance of communication between the Field Services Division (specifically, the Compliance Monitoring Unit and the Abuse, Neglect, and Exploitation Unit) and the Training and Certification Division.
- Written policies and procedures for the certification/recertification processes performed by the Commission, including placing a department on probationary status.

Additionally, the Commission should:

- Track the length of time that it takes to complete investigations, review outstanding investigations, and conduct a supervisory review of completed investigations to monitor the timeliness and quality of abuse, neglect, and exploitation investigations and data entry in the Abuse, Neglect, and Exploitation Database.
- Report all allegations of abuse, neglect, and exploitation to local law enforcement within the 24-hour period as defined in Title 37, Texas Administrative Code, Section 349.46(a), or amend the code to allow the Commission to report allegations of abuse, neglect, and exploitation to

local law enforcement by the next business day after the receipt of the allegation.

- Dedicate sufficient resources to ensure that the Abuse, Neglect, and Exploitation Database is updated in a timely manner.
- Maintain a log and documentation of the cases deleted from the Abuse, Neglect, and Exploitation Database.
- Implement a supervisory review (prior to the closing of monitoring reports) of the compliance and non-compliance in the COMETS monitoring reports, reviewer workbooks, and the supporting documentation for the Performance Improvement Plan process to ensure that documentation is complete and that all compliances and noncompliances are documented.
- Develop and provide formal training for Field Services' monitors regarding the documentation for monitoring visits. The training should specifically address how to document compliance, non-compliance, and start and end dates in COMETS and the reviewer workbook, as well as the process for providing monitoring reports to departments.
- Provide the departments with more in-depth training during the Commission's annual budget workshop on (1) how to develop measurable, quantifiable contract terms and performance measures for service provider contracts and (2) how to effectively monitor service provider contracts.
- Consider reporting information regarding the results of its information technology systems' automated edit and reasonableness checks to the Board.
- Institute the use of a mitigating control for excessive access, such as programmers' access to production code. This control could be an audit trail and supervisory monitoring of the audit trail.
- Segregate job duties within the Management Information Systems division. If this is not possible, the Commission should implement a supervisory review process of automated system audit trails.

Management's Response

The Commission should develop, document, or implement:

Criteria for objectively imposing sanctions for violations of state juvenile probation standards.

Concur. Although the Commission has developed a comprehensive set of sanctions, formal approval by the Commission's board is lacking. The due

process measures afforded in the Commission's Compliance Improvement System (e.g., corrective actions, adverse actions, board actions and financial actions) will be formalized in policy and procedure. In addition, approval by the board will be requested.

Criteria, as well as written policies and procedures, for imposing sanctions on departments that employ non-certified individuals who are designated as a perpetrator in a Commission abuse, neglect, and exploitation investigation.

Concur. Currently, every designated perpetrator (certified or not) is entered into the database. If a designated perpetrator subsequently applies for certification or recertification, the name and other identifying information is flagged within the database. The certification officer can then confirm and verify that the applicant for certification is in fact a previously designated perpetrator. It is important to note that a prior designation as perpetrator of abuse, neglect, or exploitation does not automatically prohibit that person's future employment or certification as a juvenile probation officer or a detention officer. The Commission employs various disciplinary sanctions less severe than a life-time revocation or prohibition from future certification. In the case of a local jurisdiction employee that serves in non-certifiable capacity (i.e., JPO or JDO) and who also happens to be a designated perpetrator, the Commission may elect to execute existing contract sanctions. The applicable FY 08 State Financial Assistance Contract provisions are as follows:

- *Article V, Section 5.7. **Health and Safety of Youth.** Grantee shall provide juvenile probation programs and services to serve the youth under the jurisdiction of the juvenile court or courts within the Grantee's jurisdiction and shall ensure all programs, services and facilities provide adequate health and safety protections, procedures, and policies for all youth being served. The Commission may issue a Non-Compliance Citation Report (NCCR), cease or suspend funding or impose any other sanctions available under administrative rules or other applicable laws for failure to protect the health and safety of youth.*
- *Article VII, Section 7.6.1.3. **Termination for Cause.** This Contract may be terminated immediately by the Commission, when the life, health, welfare or safety of individuals served by or under the authority of the Grantee is endangered or could be endangered either directly or indirectly through the Grantee's intentional, willful or negligent discharge of its duties under this Contract. For purposes of this Contract, willful or negligent discharge of duties includes, but is not limited to, a finding or pattern of findings by the Commission of "Reason to Believe" in an abuse, neglect or exploitation investigation occurring in connection with a juvenile justice facility, juvenile justice program, or the provision of juvenile probation services.*

Written policies and procedures that require appropriate Commission staff members to follow up on the certification and employment status of individuals who are designated as perpetrators in a Commission abuse, neglect, and exploitation investigation.

Concur. Currently, investigators inquire regarding employment status at the conclusion of the internal investigation. The Abuse Neglect and Exploitation (ANE) draft standards under Section 358.810 (10) will require that the internal investigation report include the employment status of the individual who was the subject of the investigation. The Commission has proposed changes to the ANE database which will allow ANE investigators to track the status of the certification or disciplinary process. Additionally, follow up procedures will be incorporated into the unit's policy and procedure manual.

Timelines for when and how often information should be entered into the Commission's Abuse, Neglect, and Exploitation Database.

Concur. This recommendation has been addressed, at least partially, through the revision of the division's policy and procedure manual which was updated in March 2007. The policy and procedure gives specific guidelines for data entry under Section 11.03. Ticklers will be added to remind an investigator of an open case that has had no entries for a certain number of days. In addition, a review process will be implemented for completed cases.

Written policies and procedures that describe (1) when a compliance or non-compliance should be issued and (2) when and how to issue monitoring reports to the departments.

Concur. The Commission's Compliance Monitoring Unit will adopt formalized policies and procedures to ensure that all Compliance Resource Specialists are consistent in their identification and formal citation of all standards non-compliances. Policy and procedure will clarify that absent very limited formalized exemptions such as those requiring supervisory or executive level approval, all standards non-compliances will be cited within a COMETS-based report. In addition to policy and procedure requirements, additional accountability measures for this recommendation will be incorporated into a formalized training program for Compliance Resource Specialists, and into individual and unit level performance evaluations.

Additional risk factors, such as the amount of time since the previous visit or number of certified officers, in the risk assessment process for local probation departments and certification/recertification.

Concur. The Commission's Compliance Monitoring Unit will modify its single variant "risk-assessment" formula to a multi-variant formula in order to establish enhanced monitoring frequency and scope determinations for the Unit's monitoring of the State's probation departments' compliance with TAC 341 and 349 requirements.

Comprehensive written policies and procedures, covering all divisions that provide an overall understanding of the purpose of each area's function, as well as detailed descriptions of critical steps necessary to properly carry out each function. The written procedures also should include action plans for situations that may arise when departments do not comply with the Commission's procedures and rules.

Concur. Comprehensive policy and procedure manuals detailing each unit's functions were updated and became effective in March 2007. Every function of the Commission, including the critical steps to properly carry out each function, is contained in the each unit/division's manual. However, procedures do not include action plans for situations that may arise when departments do not comply with the Commission's rules. In addition, emphasis will be placed on the development of policies specific to unit involvement in the initiation (e.g., verification and recommendation practices) of corrective or adverse actions for department's or facilities that demonstrate significant or repeated non-compliant practices. These procedures will be added specific to each unit.

Written policies and procedures requiring staff to communicate information that is essential to the probation departments' compliance with standards between all divisions (using the Contact Activity Tracking System, CATS). Specifically, the Commission should emphasize the importance of communication between the Field Services Division (specifically, the Compliance Monitoring Unit and the Abuse, Neglect, and Exploitation Unit) and the Training and Certification Division.

Concur. The CATS system was designed as an internal agency communication system and therefore information contained in the system is viewed by all staff. Due to the confidential nature of ANE records, it was decided that use of the system by ANE would not be prudent. The Commission plans to add a module for instance that can flag the certification unit and/or the field services unit of a potential problem with an officer or department. Written policies and procedures requiring staff to communicate information on department's standards compliance using the CATS system will be added to each unit/division manual.

Written policies and procedures for the certification/recertification processes performed by the Commission, including placing a department on probationary status.

Concur. Although the Commission has some policies and procedures in place specific to certification/recertification, there are no policies and procedures that describe the steps needed to be taken to approve or deny certification. These steps will be added to the Certification Guidelines Manual.

Track the length of time that it takes to complete investigations, review outstanding investigations, and conduct a supervisory review of completed investigations to monitor the timeliness and quality of abuse, neglect, and exploitation investigations and data entry in the Abuse, Neglect, and Exploitation Database.

Concur. Section 11.07 of the ANE Unit's policy and procedure manual addresses this recommendation to some degree in that an investigator is required to complete the preliminary investigation within 10 days of the receipt of the internal investigation. However, no current time requirement for the completion of the comprehensive investigation exists. Based on history, the completion of a comprehensive investigation is reliant on so many variables and therefore difficult to assign a realistic timeframe for completion. For example, the Commission cannot move forward with its investigation until local law enforcement completes their investigation. In spite of these uncontrollable circumstances, the Commission will improve its efforts to track the length of time it takes to complete investigations. Currently, internal policy requires that all cases resulting in a "Reason to Believe" finding must be staffed with the unit supervisor. In the future, a sample of completed cases from each investigator will be reviewed by the unit supervisor to ensure quality and timeliness of the investigations.

Report all allegations of abuse, neglect, and exploitation to local law enforcement within the 24-hour period as defined in Title 37, Texas Administrative Code, Section 349.46(a), or amend the code to allow the Commission to report allegations of abuse, neglect, and exploitation to local law enforcement by the next business day after the receipt of the allegation.

Concur. The Commission is in the process of developing and implementing procedures for investigators to be placed on an "on call status" during weekends. Another option under consideration is amending the Texas Administrative Code to mirror the Texas Family Code which allows for a 48-hour reporting period.

Dedicate sufficient resources to ensure that the Abuse, Neglect, and Exploitation Database is updated in a timely manner.

Concur. The ANE unit/division receives referrals from 87 juvenile facilities and 168 juvenile probation departments and consists of only four investigators for the entire state. The unit's ability to enter information into the database in a timely manner is sometimes difficult. Prescriptive policies and procedures revised in March 2007 have helped improve with timeliness as has electronic alerts added to the database that remind the assigned investigator of certain deadlines. Additional improvements to the ANE database are in the planning phase.

Maintain a log and documentation of the cases deleted from the Abuse, Neglect, and Exploitation Database.

Concur. The Management Information System's (MIS) division will coordinate with the ANE division to incorporate a "flag as deleted" approach for case records in the ANE system. This will remove the records from the logical view, but will leave the data intact within the system itself accessible only with proper security clearance.

Implement a supervisory review (prior to the closing of monitoring reports) of the compliance and non-compliance in the COMETS monitoring reports, reviewer workbooks, and the supporting Documentation for the Performance Improvement Plan process to ensure that documentation is complete and that all compliances and noncompliances are documented.

Concur. The Commission's Compliance Monitoring Unit will establish a limited review process which may consist of multiple levels of review and accountability to insure the accuracy of unit's monitoring documentation and final formal reports. The new accountability measures will likely incorporate self-assessment, peer, and supervisory level reviews. Additional accountability measures for this recommendation will be incorporated into a formalized training program for Compliance Resource Specialists and into individual and unit level performance evaluations.

Develop and provide formal training for Field Services' monitors regarding the documentation for monitoring visits. The training should specifically address how to document compliance, non-compliance, and start and end dates in COMETS and the reviewer workbook, as well as the process for providing monitoring reports to departments.

Concur. The Commission's Compliance Monitoring Unit (Field Services) will develop a formal training program for all new (hired after September 2007) Compliance Resource Specialists. The training program will include specific curriculum, competency, field work, and mentoring components. Existing (those hired before September 2007) Compliance Resource Specialists will be receive formal training if it is determined they lack expected proficiency in any of their required responsibilities.

Provide the departments with more in-depth training during the Commission's annual budget workshop on (1) how to develop measurable, quantifiable contract terms and performance measures for service provider contracts and (2) how to effectively monitor service provider contracts.

Concur. During the Commission's annual budget workshop, the Fiscal Unit will train juvenile probation staff on how to develop measurable, quantifiable contract terms and performance measures for the service provider contract. The presentation will emphasize that each contract should contain a provision regarding the evaluation criteria process, specific performance goals, output

measures and outcome measures based on the type of service to achieve performance targets. The presentation will include evaluation criteria examples for non-residential and residential contracts. In addition, juvenile probation staff will be trained on how to effectively monitor service provider contracts.

Consider reporting information regarding the results of its information technology systems' automated edit and reasonableness checks to the Board.

Concur. The results of the edit and reasonableness checks are meant to improve the accuracy of the data being provided by the local juvenile probation department to the agency. As such, this information is communicated back to the local juvenile department initially upon processing the submitted data each month and then again in a quarterly statistical report to help departments adjust any erroneous entries. The Commission will develop a process of reporting this information to the Board on an annual basis.

Institute the use of a mitigating control for excessive access, such as programmers' access to production code. This control could be an audit trail and supervisory monitoring of the audit trail.

Concur. The MIS Unit will institute a log and audit trail process to record programmer access to production code and modification of it. This audit trail will be reviewed by management personnel.

Segregate job duties within the Management Information Systems division. If this is not possible, the Commission should implement a supervisory review process of automated system audit trails.

Concur. The MIS Director will implement a periodic review of the automated system audit trails to insure no improper activity has occurred and validate the accuracy and effectiveness of security controls. At the same time, the MIS Unit will further investigate other options for streamlining this process while maintaining the overall integrity.

Departments Are Conducting Comprehensive Criminal History Checks on Employees, but the Commission Should Enhance Its Abuse, Neglect, and Exploitation Investigation Processes

In addition to the follow-up work noted in Chapter 1, auditors reviewed employee personnel files; juvenile grievances; and investigations of abuse, neglect, and exploitation allegations at the juvenile probation departments (departments) in Bexar, Harris, Hays, and McLennan counties.

All four departments were conducting criminal history checks of employees in accordance with applicable laws and regulations. Two of the four departments processed and reviewed juvenile grievances in a timely and appropriate manner. However, one department did not consistently have a supervisory review, while the other did not always process grievances in a timely manner.

Criminal History Check Requirements

Criminal history checks must be conducted prior to submitting a certification or recertification application for juvenile probation or detention officers. The criminal history checks include:

- A Texas criminal history background search.
- A local law enforcement sex offender registration records check in the city or county where the applicant resides.
- A Federal Bureau of Investigation fingerprint based criminal history background search.
- A state criminal history background search and state sex offender registration check if the applicant currently or previously resided in any of 11 specific states.

The criminal history background search may not be more than 90 calendar days old.

The recertification applications shall not be sent more than 60 calendar days after the certification expiration date.

Source: Title 37, Texas Administrative Code, Sections 349.8(a)(1), 349.8(a)(3), 349.11(a)(1), 349.11(a)(3), and 349.11(c)(1).

Also, two departments appropriately classified and investigated allegations of abuse, neglect, and exploitation. However, the other two departments were not consistently reporting and investigating allegations of abuse, neglect, and exploitation.

Chapter 2-A

Departments Are Properly Performing Criminal History Checks of Employees

Auditors reviewed criminal history checks for 111 certified juvenile probation and detention officers at four departments –Bexar, Harris, Hays, and McLennan counties—and found that the departments had conducted criminal history checks (including sex offender checks) for all 111 officers (100 percent) prior to certification/recertification.

Specifically:

- For 108 of 108 (100 percent) certified juvenile probation and detention officers reviewed by auditors, the departments performed criminal history checks no more than 90 days before receiving certification or recertification. Three of the officers did not complete the certification/recertification process.
- For 63 of 63 (100 percent) recertification applications reviewed by auditors, the departments performed criminal history checks less than 60 days after the certification expiration date.

Two of Four Departments Reviewed Are Not Consistently Reporting Investigations and Allegations of Abuse, Neglect, and Exploitation

Auditors reviewed allegations of abuse, neglect, and exploitation received by the four departments between September 1, 2005, and February 28, 2007 to ensure that allegations were appropriately classified, investigated by the departments, and for compliance with requirements established in Texas Administrative Code (TAC) (see text box) for:

Abuse, Neglect, and Exploitation Requirements

Title 37, Texas Administrative Code, Section 343.3(b), requires the following:

- Any employee, volunteer or intern of a facility shall report to the Commission and local law enforcement any allegation of abuse, exploitation or neglect of a resident.
- A report of alleged abuse, exploitation, or neglect shall be made within 24 hours from the time the allegation is made.
- The facility administrator or designee shall submit a copy of the internal investigation to the Commission within five calendar days following the completion of the internal investigation.

- Reporting to the Commission.
- Reporting to local law enforcement.
- Providing a copy of the departments' Internal Investigation Reports to the Commission.

All allegations reviewed at Harris and Hays counties were appropriately classified, investigated by the departments, and reported in accordance with requirements in TAC.

At Bexar County, three of 51 (6 percent) allegations logged by the local juvenile probation department were not reported to the Commission. For two of these allegations, the Department provided auditors documented Internal Investigation Reports, which had not been submitted to the Commission as required by

TAC. For one allegation, the department could not provide any documentation that it had investigated the allegation.

Additionally, at Bexar County:

- Eighteen of 19 (95 percent) allegations were appropriately classified and investigated by the department. No documentation was provided for the remaining allegation.
- Four of 19 (21 percent) allegations were not reported to law enforcement within 24 hours.
- Five of 19 (26 percent) allegations were not reported to the Commission within 24 hours.
- Thirteen of 19 (68 percent) allegations did not have an Internal Investigation Report submitted to the Commission within five days of completion.

McLennan County received nine allegations of abuse, neglect, and exploitation between September 1, 2005, and February 28, 2007. Of these:

- All nine allegations were reviewed, appropriately classified, and investigated by the department.
- Two of 9 (22 percent) allegations were not reported to law enforcement within 24 hours.
- One of 9 (11 percent) allegations was not reported to the Commission within 24 hours.
- Four of 9 (44 percent) allegations did not have an Internal Investigation Report submitted to the Commission within five days of completion.

The Commission does not currently perform any reconciliation between the allegations logged by the Commission and the allegations logged by the departments. The Commission provides training to the departments regarding the reporting requirements for abuse, neglect, and exploitation allegations and investigations. However, the Commission does not review the departments' records for compliance with these reporting requirements. If allegations are not reported to the Commission in a timely manner, this increases the risk that a witness, alleged victim, or alleged perpetrator could be moved from the facility, released, or not able to recall the details of the reported event.

Recommendations

The Commission should:

- Perform regular monitoring of the abuse, neglect, and exploitation reporting requirements at departments as part of its regular Field Services Division monitoring visits.
- Amend the Texas Administrative Code to require departments to have detailed policies and procedures regarding the reporting of abuse, neglect, and exploitation allegations to the Commission and local law enforcement.
- Perform a periodic reconciliation between the allegations and serious incidents logged by the departments and the allegations and serious incidents received from the departments and logged by the Commission to ensure that all allegations and serious incidents are documented and, if needed, investigated. This reconciliation should be performed at least annually.

Management's Response

Perform regular monitoring of the abuse, neglect, and exploitation reporting requirements at departments as part of its regular Field Services Division monitoring visits.

Concur. The Commission's Field Services Division will monitor the department's abuse, neglect, and exploitation's reporting requirements as part of its regular monitoring visits. Due to the Commission's inadequate staff resources, only a small sample will be monitored.

Amend the Texas Administrative Code to require departments to have detailed policies and procedures regarding the reporting of abuse, neglect, and exploitation allegations to the Commission and local law enforcement.

Concur. The Commission's Abuse, Neglect and Exploitation Investigations Unit will amend the draft of Chapter 358 of the Texas Administrative Code to include this recommendation. All departments, programs and facilities will be required to implement detailed policies and procedures regarding the reporting of abuse, neglect and exploitation allegations.

Perform a periodic reconciliation between the allegations and serious incidents logged by the departments and the allegations and serious incidents received from the departments and logged by the Commission to ensure that all allegations and serious incidents are documented and, if needed, investigated. This reconciliation should be performed at least annually.

Concur. The Commission's Research and Statistics Division will reconcile the allegations and serious incidents reported to the Commission with the number of allegations and serious incidents maintained through their data management mechanism.

Chapter 2-C

Juvenile Grievances Received by Departments Are Not Consistently Processed in a Timely and Appropriate Manner

Auditors reviewed a sample of juvenile grievances at departments in Bexar, Harris, Hays, and McLennan counties for timeliness of review and resolution; supervisory review; sufficiency of available documentation; and whether the grievances contained allegations of abuse, neglect, or exploitation.

Departments in Bexar and Harris counties processed and reviewed grievances in a timely manner consistent with their policies and procedures. The department in Hays County responded to all grievances in accordance with its policies and procedures. However, these policies and procedures did not contain a time requirement for responding to grievances. The facility administrator stated that the standard used was that grievances should be responded to no later than three days after receipt. However, auditors found 14 of 30 (47 percent) grievances reviewed at Hays County were not responded to within three days. McLennan County processed and reviewed grievances in a timely manner; however, 10 of 36 (28 percent) grievances reviewed did

not have a supervisory review as required by the McLennan County department's policies and procedures.

In the grievances tested, no allegations of abuse, neglect, and exploitation were found. The four departments' policies and procedures include all required elements outlined in Title 37, Texas Administrative Code, Section 343.12(h), which states "the facility shall have a written grievance procedure with at least one level of appeal." All four departments also had a third party or supervisory review of all grievances.

Additionally, the Commission's Field Services Division's Compliance Monitoring Unit reviews the departments' grievance policy and procedures and interviews 5 percent of the residents detained in the facility on the day of the monitoring visit. The Texas Administrative Code currently lacks detailed requirements related to the timeliness and appropriateness of facility personnel reviewing youth grievances, as well as guidelines for the specific elements of grievance policies and procedures.

Recommendation

The Commission should consider amending the Texas Administrative Code to establish detailed requirements for departments in responding to juvenile grievances to ensure that the response is timely and appropriate.

Management's Response

Concur. The Commission will amend the Texas Administrative Code to establish detailed requirements for departments to respond to juvenile grievances and to ensure that the response is timely and appropriate.

Appendices

Appendix 1

Objective, Scope, and Methodology

Objective

The objective of this audit was to determine whether the Juvenile Probation Commission (Commission) has taken corrective action on significant issues related to monitoring and enforcement identified in *An Audit Report on the Juvenile Probation Commission* (State Auditor's Office Report No. 02-060, July 2002).

Scope

The scope of this audit included reviewing data in the Compliance Monitoring, Enforcement and Tracking System (COMETS); Automated Certification Information System (ACIS); and Abuse, Neglect, and Exploitation Database (ANE) for fiscal year 2006 and the first and second quarters of fiscal year 2007.

Methodology

The audit methodology included collecting information, conducting interviews with Commission, juvenile probation departments, and juvenile facility personnel; performing selected tests and other procedures; and analyzing and evaluating the results of the tests.

Information collected and reviewed included the following:

- Information from interviews with Commission executive management and staff.
- Information from interviews with juvenile probation department and pre- and post-adjudication facility personnel at four counties.
- Data in COMETS.
- Data in ANE.
- Data in ACIS.
- Commission policies and procedures.
- Juvenile probation department and pre- and post-adjudication facility policies and procedures at four counties.
- Commission monitoring reports and supporting documentation.

- Commission Abuse, Neglect, and Exploitation investigations' supporting documentation.
- Juvenile probation departments' personnel files for those individuals certified by the Commission as juvenile probation officers or juvenile detention officers.
- Youth grievances received at department facilities at four counties.
- The Commission's Board meeting minutes.
- The Commission's COMETS risk-assessment process.

Procedures and testing conducted include the following:

- Reviewed supporting documentation for monitoring reports.
- Reviewed supporting documentation for abuse, neglect, and exploitation investigations.
- Reviewed supporting documentation for criminal history checks for certified officers.
- Reviewed supporting documentation for youth grievances.

Criteria used included the following:

- Texas Family Code, Chapter 51.
- Texas Human Resources Code, Chapter 141.
- Title 37, Texas Administrative Code, Chapters 341, 343, 347-349, 351.

Project Information

Audit fieldwork was conducted from April 2007 through July 2007. This audit was conducted in accordance with generally accepted government auditing standards.

The following members of the State Auditor's staff performed the audit:

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