



An Audit Report on

**Complaint, Grievance, and Allegation
Processing at the Juvenile Justice
Department**

September 2020

Report No. 21-001



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Overall Conclusion

The Juvenile Justice Department (Department) and the Office of Independent Ombudsman (Ombudsman) review and resolve complaints, grievances, and allegations concerning youth at state-operated secure facilities. However, both the Department and the Ombudsman should strengthen processes for reviewing and resolving those complaints, grievances, and allegations. In addition, the Department should strengthen its processes for reviewing and resolving employee grievances.

Because of weaknesses in processes related to receiving complaints, grievances, and allegations, the Department and the Ombudsman cannot ensure that all complaints, grievances, and allegations received are reviewed or resolved. The Department also had weaknesses in its monitoring of complaints referred between its own divisions.

Youth Complaints, Grievances, and Allegations

Juvenile Justice Department. The Department has multiple methods of receiving complaints, grievances, and allegations from youth and staff at its five secure facilities (see text box for background on the Department). For those complaints, grievances, and allegations it had documented, the Department adequately reviewed a majority of the youth complaints and grievances tested and ensured that youth had access to the grievance process. However, there are opportunities for the Department to strengthen its processes to ensure that (1) data entered into its automated systems is accurate, (2) complaint and grievance documentation is complete, and (3) processes are consistently followed across facilities.

Office of Independent Ombudsman. The Ombudsman did not have sufficient policies and procedures for receiving and resolving complaints, grievances, and allegations concerning youth (see text box on the next page for background on the Ombudsman). The Ombudsman should strengthen documentation and reviews over

Background Information

As a result of Senate Bill 653, enacted by the 82nd Texas Legislature, the Juvenile Justice Department (Department) was created on December 1, 2011, and the existing Texas Juvenile Probation Commission (TJPC) and Texas Youth Commission (TYC) were abolished. Operations of both TJPC and TYC were transferred to the Department on its inception. Between September 1, 2018, and December 31, 2019, the Department received the following types of complaints, grievances, and allegations from its five secure facilities:

- Youth Rights Grievances - 7,343.
- Office of Inspector General Incident Reporting Center complaints - 17,822.
- Employee Grievances - 189.

The five secure facilities audited include:

- Evins Regional Juvenile Center.
- Gainesville State School.
- Giddings State School.
- McLennan County State Juvenile Correctional Facility.
- Ron Jackson State Juvenile Correctional Complex.

Source: The Department.

its complaint process to ensure that (1) it consistently addresses non-criminal complaints, (2) documentation is complete and maintained, and (3) complaints are resolved within required time frames.

Employee Grievances at the Department

The Department’s employee grievance process did not have adequate policies and procedures for receiving, investigating, and resolving employee grievances. The employee grievances tested were not adequately documented or resolved within required time frames. Results of a survey administered by auditors indicated that a majority of Department employees were aware of the grievance processes.

**Office of Independent Ombudsman
Background Information**

The Office of Independent Ombudsman (Ombudsman) was established for the purpose of investigating, evaluating, and securing the rights of the children committed to the Department.

The Ombudsman reviews complaints concerning the actions of the Department and investigates each complaint in which it appears a youth is in need of assistance.

Between September 1, 2018, and December 31, 2019, the Ombudsman received 487 complaints, grievances, or allegations related to the five secure facilities.

Sources: The Ombudsman and Texas Human Resources Code, Chapter 261.

Table 1 presents a summary of the findings in this report and the related issue ratings. (See Appendix 2 for more information about the issue rating classifications and descriptions.)

Table 1

Summary of Chapters/Subchapters and Related Issue Ratings		
Chapter/ Subchapter	Title	Issue Rating ^a
1	Background Information on Youth Complaint, Grievance, and Allegation Processes	Not Rated
2-A	The Department and Ombudsman Did Not Have Adequate Processes to Ensure That All Youth Complaints, Grievances, and Allegations Received Are Entered into Appropriate Databases	High
2-B	The Department Adequately Resolved Youth Complaints and Grievances; However, It Should Strengthen Its Documentation and Review Processes	Medium
3-A	The Ombudsman Did Not Have Adequate Policies and Procedures and Did Not Adequately Document Complaints	High
3-B	The Ombudsman Performed Monthly Site Visits at Secure Facilities; However, It Should Strengthen Its Documentation of Those Visits	Medium
4	The Department Had Significant Weaknesses in Its Employee Grievance Process	High

^a A chapter/subchapter is rated **Priority** if the issues identified present risks or effects that if not addressed could critically affect the audited entity’s ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern and reduce risks to the audited entity.

A chapter/subchapter is rated **High** if the issues identified present risks or effects that if not addressed could substantially affect the audited entity’s ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

A chapter/subchapter is rated **Medium** if the issues identified present risks or effects that if not addressed could moderately affect the audited entity’s ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

A chapter/subchapter is rated **Low** if the audit identified strengths that support the audited entity’s ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity’s ability to effectively administer the program(s)/function(s) audited.

Auditors communicated other, less significant issues separately in writing to the Department's and Ombudsman's management.

Summary of Management's Response

At the end of certain chapters in this report, auditors made recommendations to address the issues identified during this audit. The Department and the Ombudsman agreed with the recommendations in this report.

Audit Objective and Scope

The objective of this audit was to determine whether processes and controls related to the investigation, reporting, and disposition of complaints, grievances, and allegations of abuse and neglect made by youth and staff at the Department's state-operated facilities are working as intended.

The scope of this audit covered complaints, grievances, and allegations related to youth and staff from September 1, 2018, through December 31, 2019, at the Department and the Ombudsman.

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Detailed Results

Chapter 1

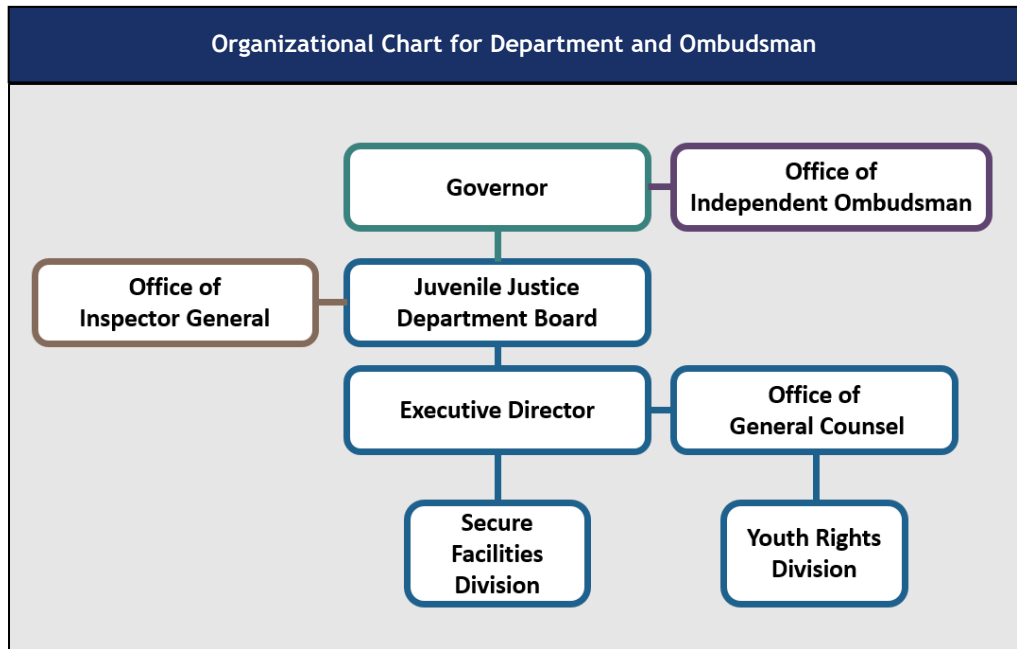
Background Information on Youth Complaint, Grievance, and Allegation Processes

The Juvenile Justice Department (Department) and the Office of Independent Ombudsman (Ombudsman) receive and resolve complaints, grievances, and allegations from and related to youth at the Department’s secure facilities.

The primary internal divisions at the Department that fulfill these functions are the Office of Inspector General, the Office of General Counsel’s Youth Rights Division, and the Secure Facilities Division. Those internal divisions are overseen by the Juvenile Justice Department Board.

The Ombudsman, an external entity, is appointed by the Governor and reports directly to the Governor and the Legislature (see Figure 1 for more information).

Figure 1



Source: Based on information from the Department.

For purposes of this report:

- A **complaint** is more formal than a grievance and may involve abuse, neglect, or exploitation of a youth and certain other incidents.
- A **grievance** concerns the care, treatment, services, or conditions related to a youth.
- An **allegation** is an assertion of misconduct that may become either a complaint or a grievance.

Complaints, grievances, and allegations regarding youth may be reviewed and resolved by the following:

OIG Investigations

Criminal Investigation - For acts that violate criminal law involving youth or staff. The case may be sent to prosecution depending on the evidence collected and conclusion reached. Cases are tracked in the Criminal Complaint Manager system.

Administrative Investigation - For a rule violation by staff that resulted in abuse, neglect, or exploitation of youth. A confirmed violation results in the staff being disciplined by the Department. Cases are tracked in the Administrative Investigation Management system.

Source: The Department.

Office of Inspector General: The Department's Office of Inspector General (OIG) operates the Incident Reporting Center (Reporting Center) and may undertake a criminal investigation or an administrative investigation for complaints or allegations that involve youth or staff (see text box for definitions of OIG investigations).

Youth Rights Division: The Youth Rights Division within the Department provides procedures for youth to file grievances concerning care, treatment, services, or conditions provided for youth (see text box for a list of basic rights of youth committed to the Department). Each of the Department's five secure facilities has a youth rights specialist responsible for the local oversight of the youth grievance process.

Secure Facilities Division: The Secure Facilities Division oversees operations at the five Department facilities and reviews serious incidents, policy violations, and other issues related to the safety of the youth and staff at those facilities.

Office of Independent Ombudsman: The Ombudsman was established to investigate, evaluate, and secure the rights of youth committed to the Department. The Ombudsman reviews complaints concerning the actions of the Department and investigates each complaint in which it appears a youth needs assistance.

Youth Basic Rights

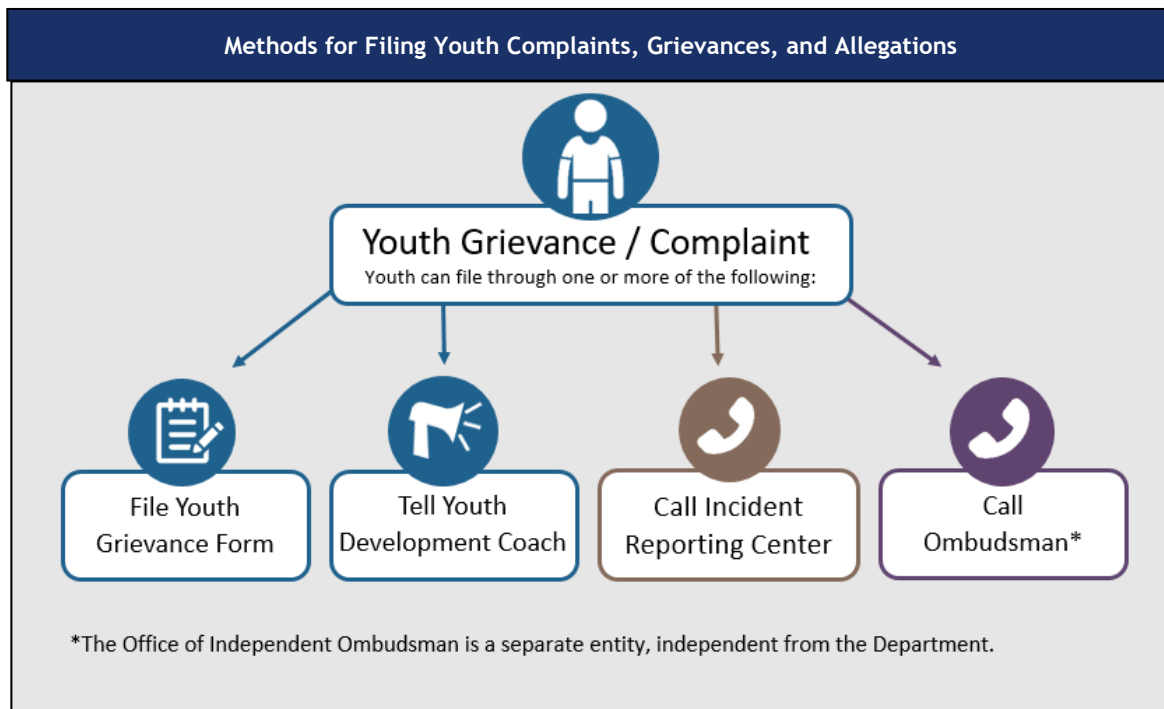
1. Equal treatment.
2. Free speech and expression.
3. Religious freedom.
4. Personal possessions.
5. Receive visitors.
6. Access to mail and telephone.
7. Earnings and monetary gifts.
8. Protection from physical and psychological harm.
9. Medical and dental care.
10. Access to attorney.
11. To be informed of all policies, rules, and procedures affecting youth.
12. Accuracy and fairness of all decisions regarding youth.
13. Confidentiality of records.
14. Right to file grievances and appeal decisions.

Source: *TJJD Youth Handbook*.

Youth Grievance/Complaint Process

The Department has multiple methods of receiving complaints, grievances, and allegations from youth and staff regarding youth (see Figure 2).

Figure 2



Source: Based on information from the Department.

Incident Reporting Center

From September 1, 2018, through December 31, 2019, the Reporting Center received 17,822 calls related to the Department's five secure facilities.

This includes calls referred to:

- **OIG Administrative Investigations** for abuse, neglect, and exploitation of youth.
- **OIG Criminal Investigations** for penal code violations.
- **Youth Rights Division** for grievances involving youth basic rights, such as access to attorney, mail, telephone, etc.
- **Secure Facilities Division** for policy violations and complaints or grievances regarding operations.
- **Human Resources** for employee grievances.
- **Medical** for serious incidents or other incidents involving medical staff.

Source: The Department.

File Youth Grievance Form. For youth at secure facilities, the Department provides pre-numbered, hard-copy grievance forms. It maintains a database to track the distribution of those grievance forms to secure facilities. If a youth submits a form, a youth rights specialist reviews that form and enters it into a Youth Grievance Manager tracking system.

Tell Youth Development Coach. Youth at secure facilities can report a grievance or complaint to a youth development coach or other facility employee. Depending on the nature of the grievance or complaint, the youth development coach will call the Reporting Center or help the youth complete a grievance form.

Call Incident Reporting Center. The Reporting Center receives calls from youth and staff at the secure facilities, as well as from halfway houses, county facilities, probation and parole offices, law enforcement agencies, and the general public. The Reporting Center, as required by the Department's policy, uses a database to document calls received that are complaints and incidents,

and to assign those calls for review. Depending on the nature of the complaint, grievance, or allegation, the Reporting Center refers the call to one of several divisions to resolve (see text box on the previous page for more information on where calls are referred).

Call Ombudsman. The Ombudsman can receive complaints from youth, staff, or the general public by phone call, in writing, or in person. The Ombudsman operates a 24-hour telephone line for complaints. This hotline is maintained by the Ombudsman during business hours and by the Reporting Center at other times. The Ombudsman tracks complaints in two databases: (1) a call database to track complaints received by telephone and (2) a case database to track the resolution of complaints and investigations, including complaints received during a visit to a facility.

The Department Cannot Ensure That It Tracks and Reviews All Complaints, Grievances, and Allegations It Receives; However, It Adequately Reviewed Those It Had Documented

The Department cannot ensure that all complaints, grievances, and allegations it receives are reviewed by the proper division. This is because the Department does not have processes to ensure that (1) all calls are entered into the Incident Reporting Center (Reporting Center) database, (2) all hard-copy youth grievance forms are entered into the Youth Grievance Manager system, or (3) all calls between Department divisions are referred appropriately and addressed by the division receiving the referral. In addition, the Ombudsman does not have a process to ensure that all complaints received are entered into its database and addressed. Not having those processes creates a risk that some complaints, grievances, and allegations will not be reviewed as required.

The Department adequately reviewed a majority of the complaints and grievances tested that it had documented in its databases. However, it should ensure that (1) data entered into the Youth Grievance Manager System (System) is accurate, (2) documentation is complete and maintained, and (3) processes are consistently followed across facilities.

Chapter 2-A

The Department and Ombudsman Did Not Have Adequate Processes to Ensure That All Youth Complaints, Grievances, and Allegations Received Were Entered into Appropriate Databases

**Chapter 2-A
Rating:
High ¹**

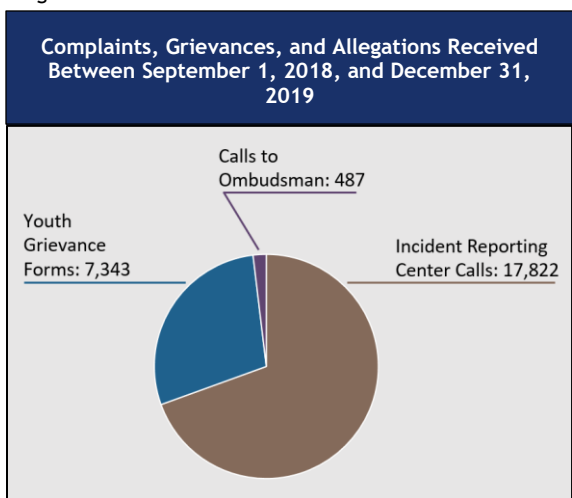
As discussed in Chapter 1, the Department and Ombudsman have multiple methods for receiving complaints, grievances, and allegations regarding youth.

Neither the Department nor the Ombudsman has a process in place to ensure that all complaints are entered into the respective databases. Therefore, the Department and Ombudsman cannot ensure that all complaints, grievances, and allegations are recorded for review, investigation, or resolution. Specifically:

¹ The risk related to the issues discussed in Chapter 2-A is rated as High because they present risks or results that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.

Calls to the Reporting Center. For the Department, the majority of complaints, grievances, and allegations were received by the Reporting Center (see Figure 3). The Department did not have a process to ensure that all calls had

Figure 3



been entered into the Reporting Center database. As a result, the Department cannot perform a reconciliation of the number of calls it received to the number of calls in the Reporting Center database because not all calls were tracked. In addition to calls for complaints, grievances, and allegations, the Reporting Center received other calls; however, certain calls, such as inquiries, were not entered into the database.

In addition, the Department did not review the recorded calls to ensure that (1) they were entered into the database or (2) they were accurately entered into the database. While auditors verified that the database contained accurate and complete information for 44 of 46² applicable calls tested, there is a risk that without regular monitoring by the Department, inaccurate details could be entered, which may result in complaints, grievances, or allegations not being fully resolved as required.

Source: Based on information from the Department and Ombudsman.

Youth Grievance Forms. The Department did not sufficiently follow-up on missing youth grievance forms to verify that they were not submitted or were destroyed. Completed forms were entered in the Youth Grievance Manager System (System). However, the Department did not determine if missing form numbers apply to grievances that should have been entered into the System or if the numbers apply to forms that youth discarded.

Calls to the Ombudsman. The Ombudsman did not have a process to ensure that all complaints received by telephone were entered into one of its two databases. The Ombudsman did not perform a reconciliation on the number of calls it received and the number of calls that the Reporting Center received on its behalf to the number of complaints in its call database.

Not ensuring that complaints received in any form are entered into the Department's or Ombudsman's databases increases the risk that some complaints or grievances will not be reviewed and addressed.

² Of the 63 calls that auditors originally selected for testing, 17 calls were older than one year and the recordings had been destroyed in compliance with the Department's process. As a result, auditors were not able to verify the accuracy of those 17 calls.

The Department did not have adequate processes for monitoring complaints, grievances, and allegations referred between divisions or ensuring that certain incidents are reported to the proper division.

The Department did not adequately monitor complaints, grievances, and allegations referred between its divisions to ensure that they were appropriately received and processed or that certain incidents were reported.

Access to Referrals from Reporting Center. The Reporting Center sends a notification for referrals to a division through a complaint processor system. However, not all divisions can accept or reject the referred complaint, grievance, or allegation in that system. The Reporting Center appropriately referred or closed all 63 calls tested according to its policy; of those 63 calls, 59 were referred to a division.

Department Monitoring of Referrals. The Department did not monitor, reconcile, or otherwise verify that the complaint, grievance, or allegation was received by the division and followed the division's process to resolution. In addition, the Department did not have documented processes detailing (1) what types of complaints must be referred to the Secure Facilities Division, (2) how those referrals should be documented, or (3) how the Secure Facilities Division should monitor complaints or serious incident reporting (see text box for more information about serious incidents).

This lack of documented processes and monitoring increases the risk that a referral will not be addressed as required. For example, 7 of the 59 calls referred by the Reporting Center were sent to the Secure Facilities Division. But the Secure Facilities Division did not follow up or document that follow up occurred for any of those seven referred calls. In addition:

- For one youth grievance tested, the grievance identified a potential youth-on-staff assault that was not communicated to the Secure Facilities Division as required.

Serious Incidents

The Department defines serious incidents at a secure facility to include the following:

- Hospital admission of a youth for any reason.
- Off-site emergency medical treatment of youth for any reason.
- Off-site emergency treatment of a staff member resulting from an assault within a facility.
- Call to 911 for any reason.
- Emergency administration of psychotropic medication.
- Sexual harassment of youth by other youth, or by staff, contractor, or volunteer.
- Discovery of a weapon or an item adapted for use as a weapon in a residential facility.
- Discovery of drugs (including prescription drugs).
- Any incident the chief local administrator determines is a serious incident that could result in criminal charges.
- A communication or activity that suggests an inappropriate adult-youth relationship involving a staff member, volunteer, or contractor.
- A use of force that the chief local administrator or designee believes to be in violation of Department policy.
- Certain injuries to a youth that are not clearly accidental.

Sources: The Department and its General Administrative Policy 07.03 - Incident Reporting.

- For 14 of 17 OIG cases tested that contained a potential policy violation, either the OIG did not communicate the policy violation to the Secure Facilities Division or the Secure Facilities Division did not document how the violation was addressed.

Serious Incident Reporting. The Department did not adequately monitor whether its staff complied with its serious incident reporting requirements. Specifically, for 14 (31 percent) of 45 serious incidents tested, the chief local administrator did not complete the required serious incident form within 24 hours of being notified about the incident by facilities staff or the Reporting Center. Not completing that form increases the risk that an incident in which a youth is injured because of abuse, neglect, or exploitation is not reported or investigated, and that safety risks to youth are not addressed.

Recommendations

The Ombudsman should develop and implement a process to ensure that all complaints received by telephone are documented and tracked, including reconciling the tracking information with the log of all calls received.

The Department should:

- Develop, document, and implement processes to:
 - ♦ Ensure that all complaints received by the Reporting Center are documented and tracked, including performing a periodic reconciliation of the tracking information with the log of all calls received.
 - ♦ Periodically verify that the information entered into the Reporting Center’s call database is complete and accurate.
 - ♦ Verify staff compliance with serious incident reporting requirements.
 - ♦ Monitor complaints, grievances, and allegations that are referred between divisions.
- Update its reconciliation process of youth grievance forms to follow up and determine if missing forms should have been submitted.
- Develop and implement policies and procedures for referring complaints, grievances, and allegations to the Secure Facilities Division and documenting the resolution of those referrals.

Management's Response from the Ombudsman

Responsible Party: Director, Office of Independent Ombudsman

Implementation Date: January, 2020 (In Progress) Expected Completion October 2020

The Office of Independent Ombudsman Agrees with the recommendation.

The potential for loss of information or the entry of inaccurate information into existing databases was identified by the Chief Ombudsman in 2018. In August of 2019, the OIO entered into a joint cooperative with the Office of Inspector General (OIG) to implement a consolidated reporting system to address the gaps in receiving and investigating complaints filed with the OIO. The new software and reporting database was in the development stage prior to this audit by the SAO and is currently entering the testing phase, with a projected full implementation date of October 2020. The new database and reporting system should alleviate all concerns raised by the SAO. The multiple databases currently utilized should be consolidated under the new reporting software and database, and all calls received, regardless of content, will be entered into the IRC where a tracking number will be assigned so the call can be documented and tracked by the OIO to a final resolution. Management will conduct periodic reviews to ensure the projects implementation is fully achieved and addresses the gaps identified by the SAO.

Management's Response from the Department

The Texas Juvenile Justice Department and the Office of Inspector General agree with the recommendations.

- *The Office of the Inspector General (OIG) is currently in the process of revising the Incident Reporting Center (IRC) standard operating procedural manual, while simultaneously replacing the legacy Texas Youth Commission (TYC) workflow applications from 2008/2009. This new software application from Sam Houston State University (SHSU) is a joint endeavor with the Office of the Independent Ombudsmen (OIO), and contains a computer aided dispatch (CAD) or call tracking component to better track complaints in the IRC. It also includes an incident management tool to document complaint investigations. In addition to these capabilities, OIG will incorporate a daily/weekly requirement for the IRC supervisor to review a minimum number of randomly selected complaints received by the IRC. These complaint reviews will include listening to the recorded call, and reviewing any emails or other supporting documentation received by each IRC specialist, as well as any*

action taken. This will be included in monthly statistical reports of the IRC, and will be incorporated into the employee performance evaluation process. However, it should be noted that the IRC receives thousands of calls from multiple phone lines, some of which are not complaints. There is no statutory or administrative rule requirement to reconcile a log of all calls received. Only calls from the hotline numbers are recorded, and regular state business calls are not logged or tracked. The IRC is staffed by a total of seven telecommunications operators that answer calls 24 hours a day. These employees are supervised by an OIG supervisor that has other training and administrative duties.

Responsible Party: *Office of Inspector General*

Implementation Date: *3/01/21 Implementation of CRIMES database;
12/01/20 Updated IRC Standard Operating Procedures*

- *The OIG is currently in the process of revising the IRC standard operating procedural manual, while simultaneously replacing the legacy TYC workflow applications from 2008. This new software application from SHSU University is a joint endeavor between the OIO, and contains a CAD or call tracking component to better track complaints. It also includes an incident management tool to document complaint investigations. In addition to these capabilities, OIG will incorporate a weekly requirement for the IRC supervisor to review a minimum number of randomly selected complaints received by the IRC. These complaint reviews will include listening to the recorded call, and reviewing any emails or other supporting documentation received by each IRC specialist, as well as any action taken. This will be included in monthly statistical reports of the IRC, and will be incorporated into the employee performance evaluation process. However, it should be noted that the IRC receives thousands of calls from multiple phone lines, some of which are not complaints. There is no statutory or administrative rule requirement to reconcile a log of all calls received. Only calls from the hotline numbers are recorded, and regular state business calls are not logged or tracked. The IRC is staffed by a total of seven telecommunications operators that answer calls 24 hours a day. These employees are supervised by an OIG supervisor that has other training and administrative duties.*

Responsible Party: Office of Inspector General

Implementation Date: 3/01/21 Implementation of CRIMES database;
12/01/20 Updated IRC Standard Operating Procedures

- *TJJD is currently developing a new youth case management system, which will improve the agency's incident reporting functionality. Currently, incident reporting at the facility as well as serious and critical incident reports sent to agency leadership are entirely paper processes that are then manually entered into the case management system. TJJD is moving towards electronic and automatic data entry whereby regular reporting will improve data reconciliation efforts. While improving the youth case management system, TJJD will be able to create more efficient database systems that allows the various reporting mechanisms to flow into a singular system that can be regularly monitored. Since incidents are first reported at the facility through regular incident reporting, and then sent out by a different process for serious and critical incidents, having one system that can support both reporting mechanisms will provide for real time monitoring of the additional reporting requirements.*

Responsible Party: Director of Secure Facilities

Implementation Date: 9/01/2021

- *Complaints are referred to the TJJD state services by the OIG Incident Reporting Center and sometimes by the Office of Independent Ombudsman. Currently, TJJD state services utilizes paper processes to manually track the complaints referred out from the IRC. While TJJD does not believe each individual division should monitor complaints, grievances, and allegations once those have been referred out to a separate division, TJJD does agree with the recommendation that proper tracking of complaints, grievances, and allegations within the specific divisions needs to improve. Currently, when matters are referred between divisions, if the receiving division believes the item was sent in error, they will notify the sending division and the parties will determine who should respond. Once the matter is accepted by a party, the sending division ceases to work on the matter, relying upon the other division to complete the complaint, grievance, or allegation. To have one division monitor the complaint, grievance, or allegation once it has been referred to another division (particularly between independent divisions such as the OIO, OIG and TJJD state services) would impose a significant administrative burden. However, the OIG is replacing the legacy TYC workflow applications, and state services is replacing the legacy TYC case*

management systems. While these two systems will not directly communicate, the updated processes in each will better ensure each division has the ability to properly monitor the complaints, grievances, and allegations referred to it.

Responsible Party: Director of Secure Facilities

Implementation Date: 9/01/2021

- *TJJD will improve its process for utilizing the Forms Manager to keep track of all grievance forms. On a quarterly basis, the Youth Rights Department will go through the logs in the grievance clerk binders as well as those forms entered into the grievance manager to identify the lost or destroyed grievances in the system. Additionally, we are able to track voided forms through the Youth Grievance Manager.*

Responsible Party: Youth Rights Program Administrator

Implementation Date: 12/1/2020

- *TJJD will develop standard procedures to control actions on complaints, grievances, and allegations referred to TJJD state services division. Once the databases referred to in other management responses provide the ability to move away from current paper and manual processes, policy will be developed to ensure the proper protocol is followed routinely. While the specific requirements for these standard procedures may be dependent on the developing system final capabilities, there will be a single point of contact in TJJD state services to receive complaints referred by the OIG IRC. This staff will ensure proper documentation and assignment of the complaint, grievance, or allegation, and will be able to run reports to verify compliance with set procedure until the specific complaint, grievance, or allegation is finalized.*

Responsible Party: Chief of Staff

Implementation Date: 9/01/2021

Chapter 2-B
Rating:
Medium³

Chapter 2-B

The Department Adequately Resolved Youth Complaints and Grievances; However, It Should Strengthen Its Documentation and Review Processes

While the Department cannot ensure that all complaints, grievances, and allegations are recorded, it adequately investigated or resolved a majority of those it had documented. Specifically:

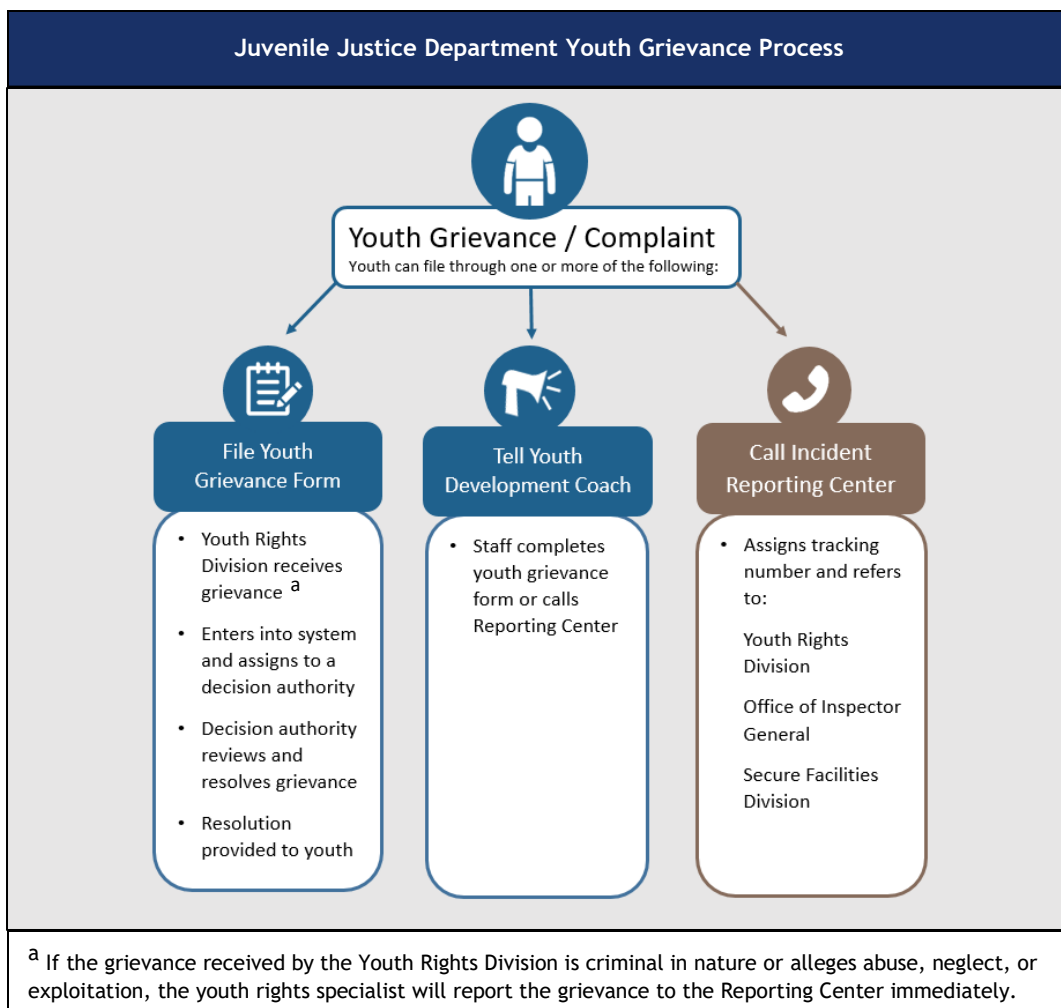
- The Department's Office of Inspector General (OIG) adequately investigated nearly all of the tested complaints and allegations that it received by ensuring that (1) issues reported in a complaint were addressed and (2) investigations were supported by appropriate evidence and appropriately reviewed.
- The Department's Youth Rights Division adequately resolved a majority of youth grievances tested and ensured that youth had access to the grievance process. It made grievance forms and phones available to youth, along with posters and policies on the grievance process.

However, the Youth Rights Division should ensure that (1) data entered into the Youth Grievance Manager System (System) is accurate, (2) documentation is complete and maintained, and (3) processes are consistently followed across facilities.

Figure 4 on the next page shows the Department's youth grievance process for each reporting method available to committed youth.

³ The risk related to the issues discussed in Chapter 2-B is rated as Medium because they present risks or results that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

Figure 4



Source: Based on information from the Department.

The Department adequately resolved the majority of complaints and grievances within the required timeframes.

The Department’s OIG adequately resolved nearly all of the cases tested and the Youth Rights Division adequately resolved the majority of grievances tested. Specifically, the OIG investigated all issues reported in a complaint or allegation for 98 percent of the 100 OIG cases tested. The OIG also documented required reviews.

In addition, the Youth Rights Division adequately resolved 96 percent of the 135 grievances tested. It also generally ensured that grievances were assigned to a decision authority and an appropriate resolution was reached within the required timeframes.

While the Department ensured that it had adequate documentation for its complaints in the OIG, it should strengthen the documentation in the Youth Rights Division.

The Department's OIG ensured that case reports contained sufficient evidence to support the conclusion reached by the investigator and that criminal cases were submitted to prosecution when applicable. The OIG also maintained separate investigations for cases that involved both administrative and criminal issues.

The Department has policies that provide guidance on how to collect, review, process, and track youth grievances. However, the youth rights specialists at individual facilities inconsistently applied those policies, and entries in the System are not reviewed for accuracy. The Department should strengthen its documentation of youth grievances and ensure that grievance information is accurately entered into the System. Specifically:

- For 44 (33 percent) of 135 grievances tested, the youth rights grievance forms were incomplete or contained inaccurate information, such as incomplete descriptions of the grievance or blank fields. This occurred most frequently on grievance forms completed by the youth rights staff based on calls from the Reporting Center.
- For 17 (13 percent) of 135 grievances tested, the Department did not accurately enter information from the youth rights grievance forms into the System or did not follow the prescribed process upon receipt. Examples of these inaccuracies or departures from the prescribed process included entering wrong dates in the System or not entering the decision authority in the System. This incorrect information can affect the timelines or how the grievance is resolved.
- For 16 (94 percent) of 17 voided grievances tested, the Department did not have documentation that it notified the youth that the grievance had been voided (see text box for more information about voided grievances). However, the Department asserted that staff provide copies of voided grievances to youth.

Voided Grievances

A youth grievance may be voided if it is determined to be a duplicate grievance or moot. Appropriate notice is provided to the youth whenever a grievance is voided unless the youth has been discharged.

An "Explanation for Voided Youth Grievance" form is used to document the reason for the void. This form includes why a grievance was voided and the youth rights staff's signature and date.

Sources: The Department's *Youth Rights Procedures Manual* and "Explanation for Voided Youth Grievance" form.

Not resolving all issues in a grievance or not processing grievances consistently, such as inappropriately voiding grievances, increases the risks that a youth will not trust the process; that a youth will not report a more serious incident in the future; and that a youth's grievance will not be addressed timely or appropriately.

Recommendations

The Department should:

- Update its processes to ensure that grievances are accurately entered into automated systems.
- Review grievance forms to ensure that they are complete and contain accurate information.
- Update its process to ensure that grievances are appropriately voided and that youth are notified when grievances are voided.

Management's Response

The Texas Juvenile Justice Department agrees with the recommendations.

- *Policies and procedures have been discussed with all of the current Youth Rights Department staff to ensure understanding of expectations. To ensure data reliability, we will set up a process for quarterly random sampling of grievances to ensure that information entered into the Youth Grievance Manager is accurate compared to the paper grievance/IRC call.*

Responsible Party: Youth Rights Program Administrator

Implementation Date: 1/1/2021

- *We have updated our process to make sure that there are no areas left blank on the grievance forms. If the information is unavailable, we will put unknown or not provided in the corresponding field. If it is non-applicable, we will put N/A. We also include a copy of the IRC form with the grievances to verify that all information is included. To verify that this process is being completed correctly, it will be included in the random sampling procedure listed in the previous bullet.*

Responsible Party: Youth Rights Program Administrator

Implementation Date: 5/28/2020

- *Prior to completion of the SAO audit, the Youth Rights Department started providing the youth the grievance void forms through the mail system where the youth have to initial when they receive their mail. The agency staff that handles mail delivery will provide the mail logs to the Youth Rights Specialists to ensure receipt and for record keeping.*

Responsible Party: Youth Rights Program Administrator

Implementation Date: 5/15/2020

The Office of Independent Ombudsman Has Significant Weaknesses in Its Documentation of Complaints and Did Not Adequately Document Site Visits

Office of Independent Ombudsman

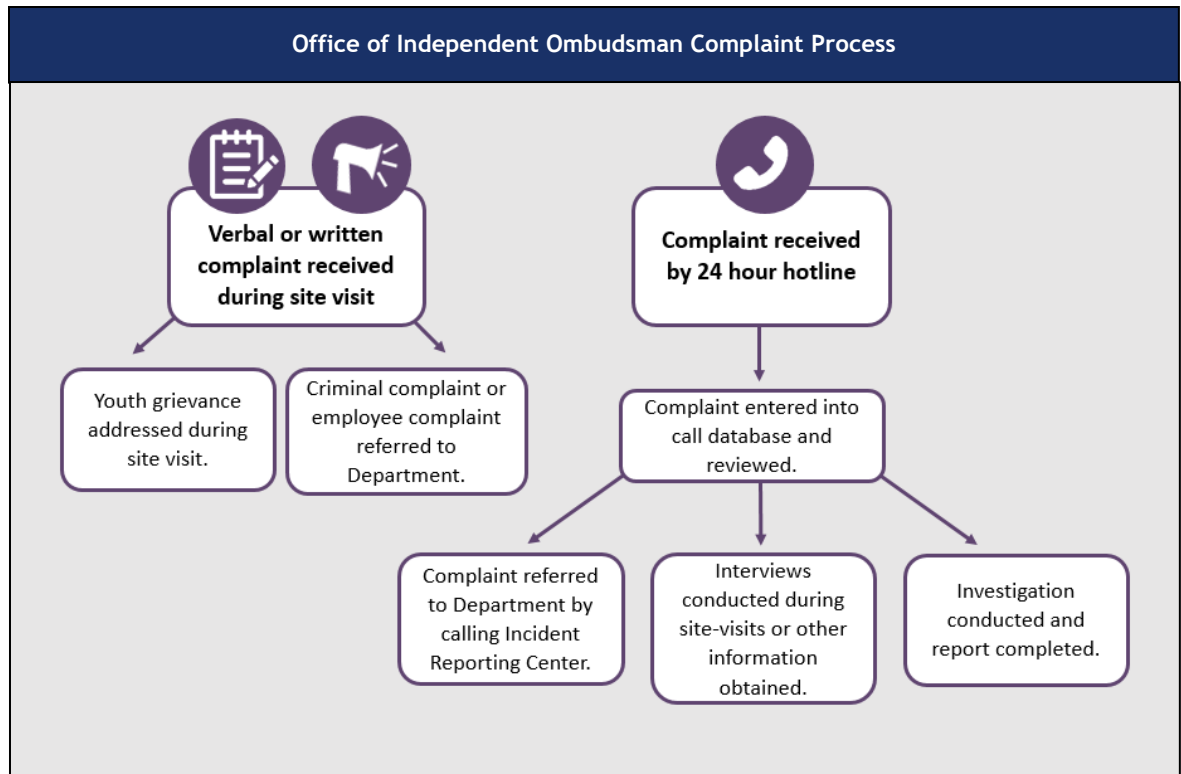
Title 37, Texas Administrative Code, Section 601.1, defines complaints as any grievance or expression of dissatisfaction or concern regarding a matter within the jurisdiction of the Department.

The Ombudsman can receive complaints from youth, staff, or the general public by phone call, in writing, or in person. The Ombudsman received 487 complaints between September 1, 2018, and December 31, 2019.

Sources: The Ombudsman; Texas Human Resources Code, Chapter 261; and Title 37, Texas Administrative Code, Chapter 601.

The Office of Independent Ombudsman (Ombudsman) reviews complaints concerning the actions of the Department and investigates each complaint in which it appears a youth needs assistance (see Figure 5 and the text box for more information). However, the Ombudsman should strengthen documentation and review over its complaint process to ensure that (1) documentation is complete and maintained; (2) complaints are resolved within required time frames; and (3) it consistently addresses non-criminal complaints. It should also ensure that it documents all services reviewed during its site visits at secure facilities.

Figure 5



Source: Based on information from the Ombudsman.

The Ombudsman Did Not Have Adequate Policies and Procedures and Did Not Adequately Document Complaints

Chapter 3-A
Rating:
High ⁴

The Ombudsman did not have adequate policies and procedures in its

Operations Manual and Employee Handbook (operations manual), last updated in 2016. While the Texas Administrative Code contains documentation requirements for complaint files, the operations manual does not include information for how complaints should be documented (see text box for requirements). In addition, its operations manual does not include definitions or guidelines for when an investigation, inquiry, or referral would be an appropriate method of addressing a complaint.

The Ombudsman also did not adequately document its disposition of complaints, and it appears to treat the non-criminal complaints it received in an inconsistent manner.

Documentation of Complaints

The Texas Administrative Code requires an information file to be maintained for each complaint and that file should include:

- The name of the person who filed the complaint.
- The date the complaint was received.
- The subject matter of the complaint.
- The name of each person contacted in relation to the complaint.
- A summary of the results of the review or investigation of the complaint.
- An explanation of the reason a file was closed, if the file was closed without taking action.

Source: Title 37, Texas Administrative Code, Section 601.8(e).

Documentation of Complaints. The Ombudsman lacked required information showing what actions were taken for complaints and if those actions were taken within required time frames. For 42 (69 percent) of 61 complaints tested, the complaint file did not contain enough information to show the disposition of the complaint. Specifically:

- **Referred to Department.** The Ombudsman refers criminal and non-criminal complaints to the Department. For 31 of the 33 complaints that were referred to the Department, the Ombudsman did not document why a complaint was closed and referred to the Department. As a result of the lack of documentation, it was unclear whether non-criminal complaints referred to the Department were within the Ombudsman's jurisdiction.
- **Followed up during site visit.** For 7 of the 14 complaints that were followed up on during a site visit, the Ombudsman did not document a resolution in either the site visit report or the call database. While the Ombudsman documented whom it spoke with during the site visit about the complaints, it did not include the outcome of those interviews or how the complaints were resolved.

⁴ The risk related to the issues discussed in Chapter 3-A is rated as High because they present risks or results that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.

- **Inquiry.** For 4 of the 12 complaints that were reviewed by the Ombudsman outside of an investigation, the Ombudsman did not document whom it spoke with about the complaint; how the complaint was resolved; or whether the youth was notified of the outcome.
- **Investigation.** The Ombudsman had sufficient documentation for the two investigations tested.

While the Ombudsman’s operations manual requires staff to make every effort to resolve a complaint within 30 business days, the Ombudsman did not consistently document the date when action was taken or when disposition was reached. For 34 (56 percent) of the 61 complaints tested, the complaint documentation contained either inaccurate dates in the call database’s date field for when a disposition was reached or incomplete documentation to show whether the complaints were reviewed within required time frames.

By not having adequate documentation within the complaint files, the Ombudsman cannot ensure that all complaints it received have been addressed or had a resolution. In addition, by not having accurate information in the database, the Ombudsman cannot ensure that complaints are being resolved timely.

Inconsistent Treatment of Non-Criminal Complaints.

Due to the lack of documentation, non-criminal complaints appear to have been inconsistently addressed by the Ombudsman. For example, several youth called the Ombudsman to report that they were not receiving the appropriate treatment or were not receiving that treatment in a timely manner. The Ombudsman referred one call about treatment to the Department and followed up on other calls about treatment during a site visit. While it is required to report certain calls to the Department (see text box), the Ombudsman’s operations manual did not provide sufficient guidance on how complaints should be addressed.

Inconsistently treating complaints may prevent the Ombudsman from identifying issues or trends occurring at the Department that could endanger committed youth.

Ombudsman Treatment of Complaints
<p>The Ombudsman is required by Texas Administrative Code to report criminal complaints to the Department’s Office of Inspector General. To do this, the Ombudsman calls the complaints into the Reporting Center. The Ombudsman also refers non-criminal complaints to the Reporting Center.</p> <p>In the sample of 61 complaints tested, the Ombudsman:</p> <ul style="list-style-type: none"> ▪ Referred 33 complaints to the Department (including criminal complaints the Ombudsman is required to refer to the Department). ▪ Followed up on 14 complaints during a site visit (for more information on site visits see Chapter 3-B). ▪ Reviewed 12 complaints outside of an investigation. ▪ Opened investigations for 2 complaints. <p>Sources: Title 37, Texas Administrative Code, Chapter 601; and the Ombudsman.</p>

Recommendations

The Ombudsman should:

- Update its *Operations Manual and Employee Handbook* to incorporate Texas Administrative Code requirements and define when an investigation, inquiry, or referral would be an appropriate way to address a complaint.
- Update processes to ensure that documentation of complaints encompasses all required information, including dates when complaints are resolved.
- Develop and implement a process to ensure consistent treatment of non-criminal complaints.

Management's Response

Responsible Party: *Director, Office of Independent Ombudsman*

Implementation Date: *January, 2020 (In Progress) Expected full implementation with new Policies in place Jan-Mar 2021*

The Office of Independent Ombudsman agrees with the SAO's recommendations

The Chief Ombudsman agrees with the SAO recommendations on the need to update the Operations manual as well as the need to update the processes associated with documentation. The process to update operations manual is currently ongoing to encompass the procedures currently in the implementation phase and deployment of the new reporting database identified in Chapter 2A of this report. The new database and reporting system identified in 2A above, will with adequate oversight correct the deficiencies identified by the SAO. The policy and operations procedures manual will be updated to include the process implemented by the new reporting system, and will include language to insure the inclusion of wording to comply with the Administrative Code to indicate why a complaint falls outside the purview of the OIO and is being referred. To help insure the OIO effectively handles complaints that fall within the purview of the OIO; and to achieve efficiency for the state by working to prevent program duplicates, overlaps, or conflicts with another state program, the OIO immediately refers any complaint outside the purview of OIO to the department who has purview and jurisdiction over the complaint, and complies with statute concerning the immediate reporting of criminal matters and of all serious and flagrant issues observed.

The Chief Ombudsman agrees with the SAO's recommendation the OIO needs to improve the documentation of information contained in the database to include information required by the Texas Administrative Code. The OIO asserts that the processes for handling complaints is adequate, but concedes the need to improve the level of documentation of the complaints so entities outside the OIO can better understand why a particular complaint falls outside the purview of the OIO and therefore is referred to the appropriate agency with jurisdiction.

Management will conduct periodic reviews of the implementation phase to ensure the operations manual is updated with the new procedures put in place to address the gaps identified by the SAO.

The Ombudsman Performed Monthly Site Visits at Secure Facilities; However, It Should Strengthen Its Documentation of Those Visits

**Chapter 3-B
Rating:
Medium⁵**

The Ombudsman performed monthly site visits to conduct inspections at each secure facility during the scope of the audit and completed its reports within four weeks as required by policy (see text box for more information). The Ombudsman also ensured that the Department was able to respond to any issues identified during the site visit and included those responses in its reports.

However, the Ombudsman's reports for those site visits did not always specify whether it reviewed the Department's delivery of services to youth. For 4 (57 percent) of 7 site visit reports tested, the report did not include whether the Ombudsman reviewed certain services the Department provided, including education services, facility security, and general treatment programs. The Ombudsman's operations manual does not define what aspects of those services should be reviewed during a site visit or provide guidance on how that review should be documented in the report.

Not including a review of all services in the site visit report increases the risk that the Ombudsman will not be able to determine whether the Department is following its policies and ensuring that committed youth are receiving the required services.

Recommendation

The Ombudsman should update its process to ensure that documentation of site visits at secure facilities includes reviews of all Department services required by the Texas Administrative Code or other regulations.

Facility Inspections

The Texas Administrative Code and Texas Human Resources Code require the Ombudsman to periodically review or inspect Department facilities to ensure that the rights of committed youth are protected.

The Texas Administrative Code requires the Ombudsman to review the following functions during a facility inspection:

- Education services.
- Facility security.
- General treatment program.
- Facility safety.

The Ombudsman visits and inspects each facility monthly and completes a report documenting that inspection and a review of services provided to youth.

Sources: The Ombudsman; Title 37, Texas Administrative Code, Section 601.12; and Texas Human Resources Code, Chapter 261.

⁵ The risk related to the issues discussed in Chapter 3-B is rated as Medium because they present risks or results that if not addressed moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.

Management's Response

Responsible Party: Director, Office of Independent Ombudsman

Implementation Date: January, 2020 (In Progress) Expected Completion Oct-2020

The Office of Independent Ombudsman Agrees with the recommendation.

The Chief Ombudsman will implement procedures to ensure future site visit reports include statements to document that the education services, facility safety and security, and general treatment programs were reviewed and found to be without issue if no problems are identified to alleviate the concern that the OIO will not be able to determine whether the Department is following its policies and ensuring committed youth are receiving required services. Management will conduct random sampling of reports to ensure compliance.

The Department Had Significant Weaknesses in Its Employee Grievance Process

**Chapter 4
Rating:**
High⁶

Filing an Employee Grievance

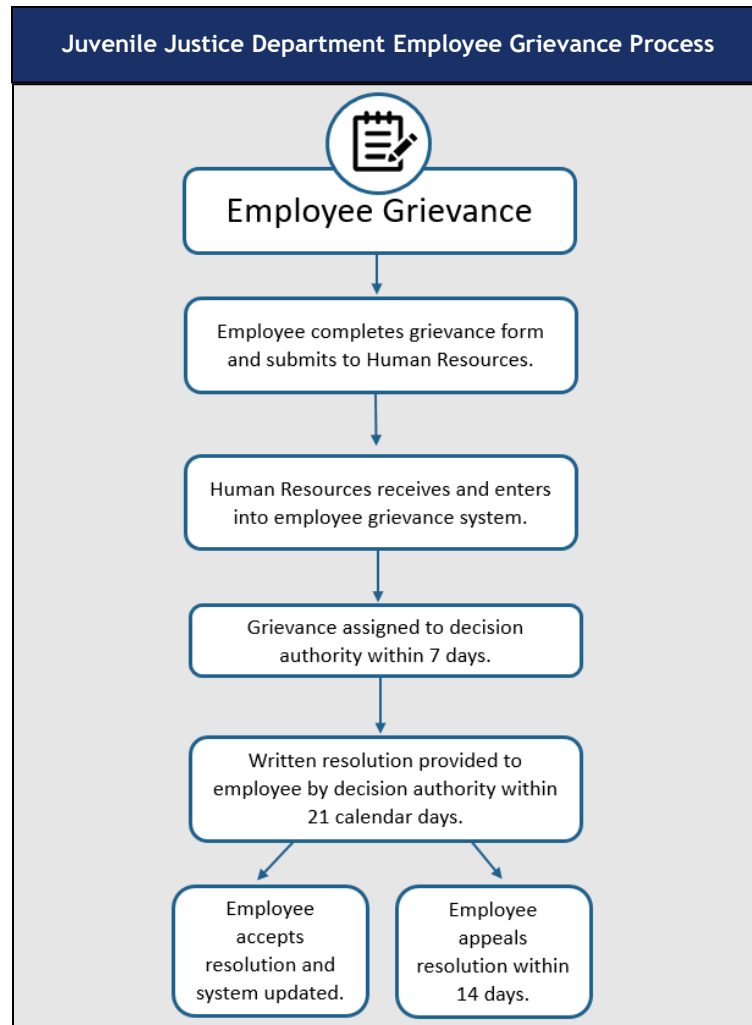
Department employees can file a grievance for the following:

- Disciplinary actions and other forms of adverse personnel action.
- Working conditions.
- Unlawful conduct or other serious impropriety.
- Adverse findings against the person filing the grievance in an official investigation.

Source: The Department's employee grievance policy.

The Department has a defined process for employees to file grievances on work-related complaints (see text box and Figure 6 for more information). Grievance forms are available online and at each of the five secure facilities. However, that process does not ensure that (1) data entered into its grievance system is accurate; (2) documentation is complete and maintained; and (3) grievances are resolved within required timeframes. In addition, some respondents to a survey of employees at the five secure facilities stated that they did not receive written resolutions of their grievances (see Appendix 4 for complete survey results).

Figure 6



Source: Based on information from the Department.

⁶ The risk related to the issues discussed in Chapter 4 is rated as High because they present risks or results that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

The Department lacks a process for notifying employees when a grievance is received or resolved.

The Department does not have a process to confirm receipt of an employee's grievance or to provide the employee with a tracking number for the grievance. The employee grievance is entered into the employee grievance system upon receipt; however, the employee is not notified that the grievance has been received. This increases the risk that a grievance could be inappropriately or accidentally destroyed or omitted from the system and not addressed or investigated.

In addition, for 29 (66 percent) of 44 grievances tested that had a resolution, the Department did not have documentation showing that the employee filing the grievance received a written grievance decision as required by Department policy. The written grievance decision should be provided to the grievant in person, by regular mail, or by other reliable means; however, the grievant is not required to sign the decision, and the Department does not document when or how the decision was provided to the grievant.

Documenting when and how an employee who filed a grievance receives a written decision would help the Department verify that the employee was appropriately informed within a time frame that would allow for a timely appeal.

The Department did not ensure that grievance documentation was complete or that grievances were accurately entered into the employee grievance system.

For 43 (96 percent) of 45 employee grievances tested, the grievance documentation was incomplete and information in the employee grievance system was incomplete or inaccurate. For example, required signatures were missing, one grievance form was missing its second page, and dates were incorrectly entered into the system.

Those errors occurred because the employee grievance coordinator did not complete a thorough review of the documentation and the Department does not have a process to reconcile that information to submitted forms or a secondary review process to verify that information is accurate. In addition, the Department does not require the employee grievance coordinator to date grievances upon receipt.

Not verifying that grievances are complete and accurately entered into the system increases the risk that they may not be appropriately resolved in a timely manner.

The Department did not always ensure that grievances were assigned to appropriate decision authorities or completed in accordance with required time frames.

The Department did not assign 6 (13 percent) of 45 grievances tested to an appropriate decision authority. Specifically:

- One grievance was assigned to an employee who was the subject of the grievance.
- For four grievances filed by employees for whom it had dismissed from employment, the Department assigned the cases to the Director of Secure Facilities. Instead, according to Department policy, those cases should have been assigned to the Office of General Counsel or an administrative law judge.
- One grievance was not assigned to a decision authority because the employee grievance coordinator inappropriately dismissed it. The employee grievance coordinator dismissed the grievance as a duplicate of a previously resolved grievance; however, the grievance was for potential retaliation and should not have been dismissed (see text box for more information about grievance dismissals). The Department does not have a process to review the employee grievance coordinator's decisions.

Of 44 employee grievances tested that had a resolution, the Department did not resolve 14 (32 percent) within the 21 day required time frame. Those grievances were resolved between 1 day and 373 days after the due date. The Department did not provide an explanation to the employee who filed the grievance for why the resolutions were late. For 6 of those 14 grievances, the Department assigned a decision authority to those grievances between 10 days and 31 days after the grievance was filed, which resulted in those grievances not being resolved within the required time frames.

Grievance Dismissals

The employee grievance coordinator may dismiss any grievance that:

- Is considered a non-grievable issue;
- Is not received within the applicable deadline;
- Remains so unclear that the nature of the grievance or the relief requested cannot be reasonably determined, after the employee has been given notice and a reasonable opportunity to make required revisions;
- Is the same or substantially the same as a pending grievance filed by the same employee; or
- Concerns a working condition that has already been resolved through the grievance process within the preceding 12 months.

A written notice is provided to an employee when a grievance is dismissed. The decision to dismiss is final and cannot be appealed.

Source: The Department's employee grievance policy.

Not assigning or resolving grievances in an appropriate and timely manner increases the risk that grievances will not be resolved or that employees will not trust the process to resolve their grievances.

The employee grievance coordinator did not always perform a review as required.

The Department's employee grievance coordinator did not perform required reviews for 30 of 43⁷ resolutions tested. Although Department policy requires the employee grievance coordinator to perform a technical review of the resolution, the grievance coordinator asserted that reviews are performed only upon request from the decision authority. Not providing a review increases the risk that the decision may not address the complete grievance or that it may provide inappropriate relief (see text box for examples of inappropriate relief).

Inappropriate Relief

Requests for inappropriate relief will not be considered. Examples of inappropriate relief include, but are not limited to:

- A request that discipline be issued to another employee; or
- A request for money to be paid in compensation for damages or for attorney's fees.

Source: The Department's employee grievance policy.

Employee Survey

The majority of the employees who completed surveys stated that they understood how to file an employee grievance and were aware of the policies. However, the respondents indicated that employees did not entirely trust the Department's employee grievance process. Specifically, only 44 percent of the 151 respondents agreed that they could file a grievance without fear of retaliation, and 28 percent disagreed with that statement. Auditors surveyed personnel at the five secure facilities regarding the employee grievance process, the youth grievance process, working conditions, and compensation.

Of the respondents who stated they had an issue for which a grievance could be filed under Department policy, only 50 percent said they actually filed a grievance. Of those that filed a grievance, 43 percent said they did not receive a written grievance resolution. See Appendix 4 for complete survey results.

⁷ Of the 45 grievances tested, one grievance was withdrawn by the employee and did not require a review. Another grievance was addressed with independent mediation and did not require a review.

Recommendations

The Department should:

- Develop and implement processes to:
 - ♦ Notify employees that grievances submitted to the Department have been received and ensure that employee grievances are tracked.
 - ♦ Verify that the information in its employee grievance system is complete and accurate.
 - ♦ Document the date on which it receives employee grievances.
 - ♦ Ensure that it assigns and resolves those grievances within required timeframes.
 - ♦ Document an employee's receipt of a written resolution to a filed grievance.
- Review grievance resolutions as required by Department policies and procedures.

Management's Response

The Texas Juvenile Justice Department agrees with the recommendation.

- *TJJD will copy the grievant on the assignment notification to the decision authority to ensure grievant is notified of agency receipt of the grievance.*

Responsible Party: *Employee Relations Manager*

Implementation Date: *8/24/2020*

- *The Grievance Coordinator and local Human Resources Administrator will perform monthly quality control reviews of all reported grievances entered into the database to ensure:*
 - ♦ *The date the grievance is received is documented on the grievance form and entered correctly into the database;*
 - ♦ *The grievance is entered accurately into the database;*
 - ♦ *Grievances are resolved within required timeframes; and*
 - ♦ *The proper record is maintained of the employee's receipt of written resolution to a filed grievance.*

Responsible Party: Employee Relations Manager

Implementation Date: 09/01/2020

- *The Grievance Coordinator will also conduct monthly meetings with local human resources to review accuracy and statuses of any grievances at each location and compliance with policies and processes. Documentation of these meetings will also be maintained by TJJD Human Resources.*

Responsible Party: Employee Relations Manager

Implementation Date: 09/01/2020

- *TJJD will explore the capability within CAPPs that may enhance the agency's tracking abilities: Date tracking, automatization of tracking, employee notifications, manager notifications, documentation/storage of all association steps: Receipt of grievance, Assignment to respondent, Status Reports, Resolutions, Methods in which resolution was provided (regular mail, certified mail, personal email address, work email address, etc.), Grievant's formal acknowledgment of receiving the response.*

Responsible Party: Employee Relations Manager

Implementation Date: 8/01/2021

Appendices

Appendix 1

Objective, Scope, and Methodology

Objective

The objective of this audit was to determine whether processes and controls related to the investigation, reporting, and disposition of complaints, grievances, and allegations of abuse and neglect made by youth and staff at the Juvenile Justice Department's (Department) state-operated facilities were working as intended.

Scope

The scope of this audit covered complaints, grievances, and allegations related to youth and staff from September 1, 2018, through December 31, 2019, at the Department and the Office of Independent Ombudsman (Ombudsman). The scope also included a review of significant internal control components related to investigation, reporting, and disposition of complaints, grievances, and allegations of abuse and neglect made by youth and staff at the Department's five state-operated secure facilities (see Appendix 3 for more information about internal control components).

Methodology

The audit methodology included collecting information and documentation; interviewing Department and Ombudsman staff regarding complaint, grievance, and allegation processes; identifying risk, conducting data analyses, and conducting an employee survey; and performing tests and evaluating the results of the tests.

Data Reliability and Completeness

Auditors reviewed the following Department and Ombudsman data for validity and completeness:

- Youth grievance data from the Department's Youth Grievance Manager system.
- Complaint, grievance, and allegation data from the Department's Incident Reporting Center call database.
- Investigation data from the Department's Office of Inspector General's Criminal Complaint Management and Administrative Investigation Management systems.

- Employee grievance data from the Department’s Human Resources Grievance Management system.
- Complaint call center data from the Ombudsman’s call database.

To do this, auditors (1) conducted interviews; (2) reviewed data query language; and (3) performed an analysis of the data.

Because of the weaknesses discussed in Chapter 2-A related to the Department’s complaint, grievance, allegation and investigation data, that data was determined to be unreliable for purposes of this audit. Specifically, the Department did not accurately enter data into its systems (see Chapters 2-B and 4) for youth and employee grievances. In addition, auditors identified blank fields in each data set for fields such as the location at which the complaint or grievance occurred.

Weaknesses were also identified in the Ombudsman’s call center database (see Chapters 2-A and 3-A). That data was incomplete and was determined to be unreliable for purposes of this audit.

As a result, all findings and recommendations in this report are based on or corroborated by evidence such as auditors’ reviews of original documentation and investigation reports.

Sampling Methodology

Auditors selected samples of complaints, grievances, and allegations for the five secure facilities. Some samples were stratified across those facilities.

Auditors selected nonstatistical samples related to Office of Inspector General (OIG) closed cases and Ombudsman complaints primarily through random selection. The sample items were not necessarily representative of the population; therefore, it would not be appropriate to project the test results to the population. Specifically, auditors selected the following samples for transactions between September 1, 2018, and December 31, 2019:

- The OIG had 3,746 closed administrative and criminal cases. Auditors selected a random sample of 100 closed cases (for each of the 5 secure facilities, auditors randomly selected 20 closed cases).
- The Ombudsman had 487 complaints. Auditors selected a random sample of 61 complaints.

The Ombudsman documented 100 site visit reports. Auditors selected a sample of 7 site visit reports. Auditors selected one site visit per month for seven months between September 1, 2018, and December 31, 2019. The

sample items were not necessarily representative of the population; therefore, it would not be appropriate to project the test results to the population.

Auditors selected nonstatistical samples related to youth rights grievances, employee grievances, and Incident Reporting Center (Reporting Center) calls primarily through random selection. In some cases, auditors selected additional complaints or grievances for testing to ensure coverage of certain types of complaints or grievances. Those sample items generally were not representative of the population. The test results as reported do not identify which items were randomly selected or selected using professional judgment. Therefore, it would not be appropriate to project those test results to the population. Specifically, auditors selected the following samples for transactions between September 1, 2018, and December 31, 2019:

- The Department had 7,343 youth rights grievances. Auditors randomly selected 125 youth grievances (for each of the 5 secure facilities, auditors randomly selected 25 youth grievances) and selected 10 additional youth grievances based on risk.
- The Department had 189 employee grievances. Auditors randomly selected 38 employee grievances and selected 7 additional employee grievances based on risk.
- The Reporting Center received 17,822 calls. Auditors randomly selected 60 calls and selected 3 additional calls based on risk.

Information collected and reviewed included the following:

- Data from the automated systems at the Department, including the Youth Grievance Manager System, Human Resources Grievance Management System, Ombudsman Case Tracking System, OIG systems (Administrative Investigation Management and Criminal Complaint Management System), and the Incident Reporting Center system.
- Department, OIG, and Ombudsman policies, procedures, guidelines, and manuals.
- Statutes, rules, laws, and other guidance relevant to the Department, OIG, and Ombudsman.
- Supporting documentation related to youth rights grievances and employee grievances.

- Department and OIG documentation including organizational charts, Department reports, grievance and complaint files, investigation case files, and grievance and investigation logs.

Procedures and tests conducted included the following:

- Analyzed data from the Department's and Ombudsman's automated systems and databases.
- Tested complaint, grievance, and allegation files to determine compliance with Department and Ombudsman policies and procedures.
- Reviewed Ombudsman documentation for inspections of secure facilities.
- Conducted walk-through inspections at selected state-operated facilities to determine compliance with policies and procedures.
- Administered surveys to Department employees at the five state-operated secure facilities.
- Interviewed Department and Ombudsman staff.

Criteria used included the following:

- The Department's Youth Rights procedures.
- The Department's *Personnel Policy and Procedure Manual*.
- Texas Human Resources Code, Chapter 261.
- Title 37, Texas Administrative Code, Parts 11 and 14.
- The Ombudsman's *Operations Manual and Employee Handbook*.
- The Department's *General Administrative Policy Manual*.
- The Department's Office of Inspector General's *Standard Operating Procedures*.

Project Information

Audit fieldwork was conducted from November 2019 through June 2020. 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.

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

- Jennifer Brantley, MS, CPA (Project Manager)
- Eric Ladejo, MPA, CFE (Assistant Project Manager)
- Steven Arnold
- Brady Bennett, MBA, CFE, CGAP
- Adam Berry, CFE
- Rogelio De La Fuente, MPA, CPA
- Allison Fries, CFE
- Kevin Mack
- Minh Trang
- Ann E. Karnes, CPA (Quality Control Reviewer)
- Becky Beachy, CIA, CGAP (Audit Manager)

Issue Rating Classifications and Descriptions

Auditors used professional judgment and rated the audit findings identified in this report. Those issue ratings are summarized in the report chapters/sub-chapters. The issue ratings were determined based on the degree of risk or effect of the findings in relation to the audit objective(s).

In determining the ratings of audit findings, auditors considered factors such as financial impact; potential failure to meet program/function objectives; noncompliance with state statute(s), rules, regulations, and other requirements or criteria; and the inadequacy of the design and/or operating effectiveness of internal controls. In addition, evidence of potential fraud, waste, or abuse; significant control environment issues; and little to no corrective action for issues previously identified could increase the ratings for audit findings. Auditors also identified and considered other factors when appropriate.

Table 2 provides a description of the issue ratings presented in this report.

Table 2

Summary of Issue Ratings	
Issue Rating	Description of Rating
Low	The audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.
Medium	Issues identified present risks or effects that if not addressed could <u>moderately affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.
High	Issues identified present risks or effects that if not addressed could <u>substantially affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.
Priority	Issues identified present risks or effects that if not addressed could <u>critically affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

Internal Control Components

Internal control is a process used by management to help an entity achieve its objectives. The U.S. Government Accountability Office's *Generally Accepted Government Auditing Standards* require auditors to assess internal control when internal control is significant to the audit objectives. The Committee of Sponsoring Organizations of the Treadway Commission (COSO) established a framework for 5 integrated components and 17 principles of internal control, which are listed in Table 3.

Table 3

Internal Control Components and Principles		
Component	Component Description	Principles
Control Environment	The control environment sets the tone of an organization, influencing the control consciousness of its people. It is the foundation for all other components of internal control, providing discipline and structure.	<ul style="list-style-type: none"> ▪ The organization demonstrates a commitment to integrity and ethical values. ▪ The board of directors demonstrates independence from management and exercises oversight of the development and performance of internal control. ▪ Management establishes, with board oversight, structures, reporting lines, and appropriate authorities and responsibilities in the pursuit of objectives. ▪ The organization demonstrates a commitment to attract, develop, and retain competent individuals in alignment with objectives. ▪ The organization holds individuals accountable for their internal control responsibilities in the pursuit of objectives.
Risk Assessment	Risk assessment is the entity's identification and analysis of risks relevant to achievement of its objectives, forming a basis for determining how the risks should be managed.	<ul style="list-style-type: none"> ▪ The organization specifies objectives with sufficient clarity to enable the identification and assessment of risks relating to objectives. ▪ The organization identifies risks to the achievement of its objectives across the entity and analyzes risks as a basis for determining how the risks should be managed. ▪ The organization considers the potential for fraud in assessing risks to the achievement of objectives. ▪ The organization identifies and assesses changes that could significantly impact the system of internal control.
Control Activities	Control activities are the policies and procedures that help ensure that management's directives are carried out.	<ul style="list-style-type: none"> ▪ The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels. ▪ The organization selects and develops general control activities over technology to support the achievement of objectives. ▪ The organization deploys control activities through policies that establish what is expected and procedures that put policies into action.

Internal Control Components and Principles		
Component	Component Description	Principles
Information and Communication	Information and communication are the identification, capture, and exchange of information in a form and time frame that enable people to carry out their responsibilities.	<ul style="list-style-type: none"> ▪ The organization obtains or generates and uses relevant, quality information to support the functioning of internal control. ▪ The organization internally communicates information, including objectives and responsibilities for internal control, necessary to support the functioning of internal control. ▪ The organization communicates with external parties regarding matters affecting the functioning of internal control.
Monitoring Activities	Monitoring is a process that assesses the quality of internal control performance over time.	<ul style="list-style-type: none"> ▪ The organization selects, develops, and performs ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning. ▪ The organization evaluates and communicates internal control deficiencies in a timely manner to those parties responsible for taking corrective action, including senior management and the board of directors, as appropriate.

Source: Internal Control - Integrated Framework, Committee of Sponsoring Organizations of the Treadway Commission, May 2013.

Results of Survey of Department Employees

The State Auditor’s Office distributed a survey to 1,505 employees at the 5 secure facilities the Juvenile Justice Department (Department) operates. The survey asked employees to respond to statements related to the processes for addressing employee and youth grievances, including accessibility, awareness, and reliability. Employees were also asked about working conditions at the facilities and compensation. Of those surveyed, 151 employees responded. The survey respondents were not necessarily representative of the population of employees; therefore, it would not be appropriate to project the survey results to the total population of employees.

The tables and figures on the following pages show the survey results in four sections: Employee Grievance Process, Youth Grievance Process, Work Conditions, and Compensation.

Employee Grievance Process

Chapter 4 identified significant weaknesses in the Department’s employee grievance process. The majority of survey respondents stated they understood how to file an employee grievance and were aware of the policies (see Tables 4 and 5 on the next page). However, they did not always trust the process. Only 67 (44 percent) of the respondents agreed that they could file a grievance without fear of retaliation; 43 (28 percent) respondents disagreed with that statement (see Figure 7 below).

Figure 7



Source: State Auditor’s Office survey.

Table 4

Please indicate your knowledge of the employee grievance process at the Department by answering the following statements.		
Survey Statements	Respondents Who Agreed with Survey Statement	Respondents Who Disagreed with Survey Statement
I am aware of the policies related to the employee grievance process.	90%	10%
I know where to access the policies regarding the employee grievance process.	91%	9%
I know how to file a grievance.	83%	17%
I am aware of the deadlines for filing a grievance.	79%	21%
I know what issues are grievable or I know where to find them.	83%	17%
If needed, I know I can seek assistance from human resources staff to file a grievance.	96%	4%
I know how to file an appeal if I am not satisfied with the resolution to my grievance.	79%	21%

Source: State Auditor's Office survey.

Table 5

How much do you agree or disagree with the following statements regarding the employee grievance process at the Department? ^a			
Survey Statements	Respondents Who Agreed with Survey Statement ^b	Respondents Who Disagreed with Survey Statement ^c	Respondents Who Were Neutral about Survey Statement
Issues or items that I would file a grievance for are included in the policy as grievable.	64%	9%	27%
Grievances are handled by the expected levels of management.	68%	13%	20%
I can file a grievance without fear of retaliation from a coworker or supervisor.	44%	28%	27%
I trust the employee grievance process to provide a resolution.	54%	21%	26%
I trust that Human Resources will handle issues I bring to them fairly and with discretion.	64%	13%	23%
^a The percentages do not always sum to 100 percent due to rounding. ^b Respondents who agreed or strongly agreed with an individual survey statement were grouped together in the "Agree" column. ^c Respondents who disagreed or strongly disagreed with an individual survey statement were grouped together in the "Disagree" column.			

Source: State Auditor's Office survey.

Of the 28 (19 percent) survey respondents who said they had an issue for which a grievance could be filed under Department policy, 50 percent said they filed a grievance for that issue. Of the 14 who filed a grievance, 43 percent stated they did not receive a written grievance resolution (see Table 6).

Table 6

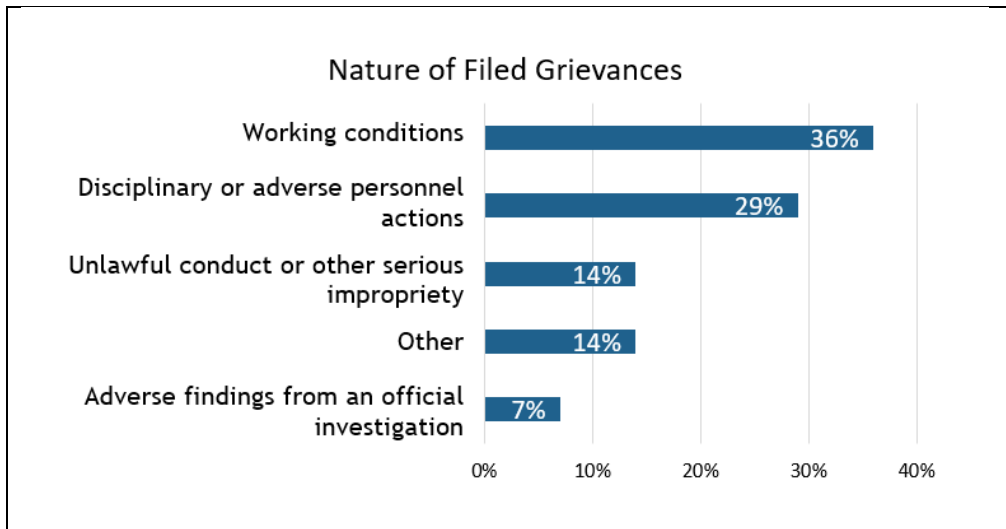
For those who filed a grievance, employees indicated their experience with the employee grievance process at the Department by answering the following statements. ^a			
Survey Statements	Respondents Who Agreed with Survey Statement	Respondents Who Disagreed with Survey Statement	Survey Statement Not Applicable to Respondent
I was able to provide documentation supporting my grievance.	79%	0%	21%
I was provided access to or copies of evidence for an adverse personnel action or adverse finding in an investigation upon my request.	21%	36%	43%
I received a written grievance decision within three weeks according to the policy.	50%	43%	7%
The grievance process followed Department policy.	64%	29%	7%
I was provided the opportunity to appeal the resolution if I was unsatisfied with the outcome.	64%	21%	14%
The appeal process followed Department policy.	57%	21%	21%

^a The percentages do not always sum to 100 percent due to rounding.

Source: State Auditor’s Office survey.

Figure 8 shows the nature of the grievances filed by the 14 respondents who had filed a grievance.

Figure 8



Source: State Auditor’s Office survey.

For those 14 respondents who did not file a grievance, fear of retaliation (57 percent) was the top reason for not filing a grievance. Other reasons were a belief that filing a grievance would not work (21 percent); the grievance was resolved otherwise (14 percent); or they did not know the process (7 percent).

Of the 151 survey respondents, only 5 (3 percent) had responsibility for reviewing and resolving employee grievances. Table 7 shows their experience with that process.

Table 7

In your role of reviewing and resolving employee grievances:			
Survey Statements	Respondents Who Agreed with Survey Statement ^a	Respondents Who Disagreed with Survey Statement ^b	Respondents Who Were Neutral about Survey Statement
I received adequate training to ensure my reviews are thorough and appropriate.	20%	40%	40%
I am given adequate time to review all evidence regarding a grievance.	40%	20%	40%
I see resolutions acted upon and changes implemented when needed.	40%	40%	20%
^a Respondents who agreed or strongly agreed with an individual survey statement were grouped together in the “Agree” column. ^b Respondents who disagreed or strongly disagreed with an individual survey statement were grouped together in the “Disagree” column.			

Source: State Auditor’s Office survey.

While most survey respondents did not provide any additional comments about the employee grievance process, 33 (22 percent) respondents noted the following about the process:

- Perceived favoritism in the process.
- Fears of retaliation if an employee files a grievance.
- The process does not work.
- Never used the process.
- Not aware of the process.

Knowledge of the Youth Grievance Process

As shown in Table 8, survey respondents were aware of the policies related to the youth grievance process.

Table 8

Please indicate the extent of your knowledge of the youth grievance process at the Department by answering the following statements:		
Survey Statements	Respondents Who Agreed with Survey Statement	Respondents Who Disagreed with Survey Statement
I am aware of the policies related to the youth grievance process.	88%	12%
I am aware that I can file a grievance on the behalf of a youth by calling the Ombudsman or Incident Reporting Center.	83%	27%

Source: State Auditor’s Office survey.

Of the 151 survey respondents, only 18 (12 percent) had responsibility for reviewing and resolving youth grievances. Table 9 shows their experience with that process.

Table 9

In your role of reviewing and resolving youth grievances: ^a			
Survey Statements	Respondents Who Agreed with Survey Statement ^b	Respondents Who Disagreed with Survey Statement ^c	Respondents Who Were Neutral about Survey Statement
I received adequate training to ensure my reviews are thorough and appropriate.	72%	17%	11%
I am given adequate time to review all evidence regarding a grievance.	78%	17%	6%
I see resolutions acted upon and changes implemented when needed.	78%	6%	17%
^a The percentages do not always sum to 100 percent due to rounding. ^b Respondents who agreed or strongly agreed with an individual survey statement were grouped together in the “Agree” column. ^c Respondents who disagreed or strongly disagreed with an individual survey statement were grouped together in the “Disagree” column.			

Source: State Auditor’s Office Survey.

A majority (89 percent) of survey respondents did not provide any additional comments on the youth grievance process. Among the 11 percent who commented, some noted that youth intentionally file complaints to cause problems and that there are no consequences for false claims.

Work Conditions

As shown in Figure 9 and Table 10, only 67 (44 percent) survey respondents agreed that staff were in control of the facility and youth at all times. The 40 (26 percent) respondents that did not agree that staff were in control commented that there are no consequences for youth who do not comply with rules or who file false complaints.

Figure 9



Source: State Auditor's Office survey.

Table 10

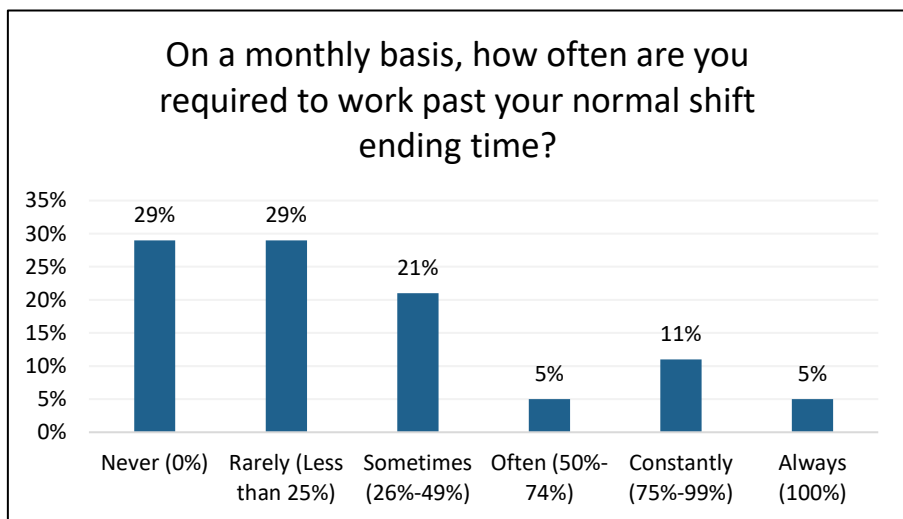
How much do you agree or disagree with the following statements regarding the conditions at the Department's facilities? ^a			
Survey Statements	Respondents Who Agreed with Survey Statement ^b	Respondents Who Disagreed with Survey Statement ^c	Respondents Who Were Neutral about Survey Statement
Staff are in control of the facility and youth at all times.	44%	26%	29%
Youth are adequately supervised and maintained in a safe environment.	54%	19%	27%
Staff safety is important to the Department.	58%	19%	23%
^a The percentages do not always sum to 100 percent due to rounding. ^b Respondents who agreed or strongly agreed with an individual survey statement were grouped together in the "Agree" column. ^c Respondents who disagreed or strongly disagreed with an individual survey statement were grouped together in the "Disagree" column.			

Source: State Auditor's Office survey.

In addition to the perception that there are not adequate consequences for youth who do not comply with rules or who file false complaints, other reasons staff stated why they disagreed with one or more of the statements in Table 10 above included understaffing at the facilities, staff misconduct, the ineffectiveness of the model the Department uses to improve the juvenile justice system (the Texas Model), and staff working long shifts.

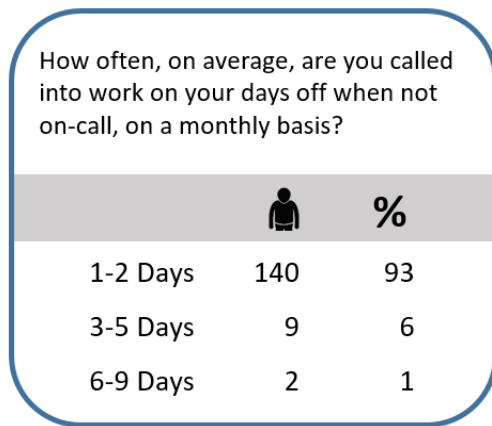
Figures 10, 11, and 12 below show the survey responses to working condition questions regarding working past the employees' normal shifts.

Figure 10



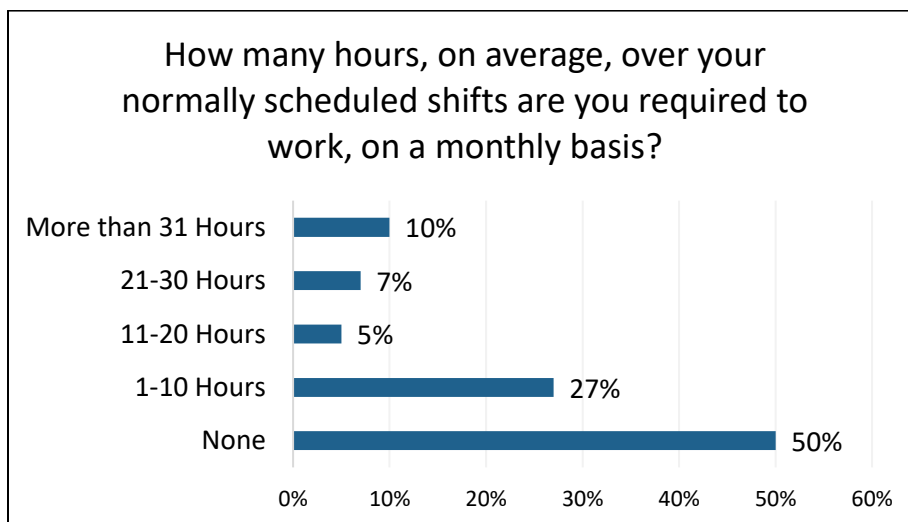
Source: State Auditor's Office survey.

Figure 11



Source: State Auditor's Office survey.

Figure 12

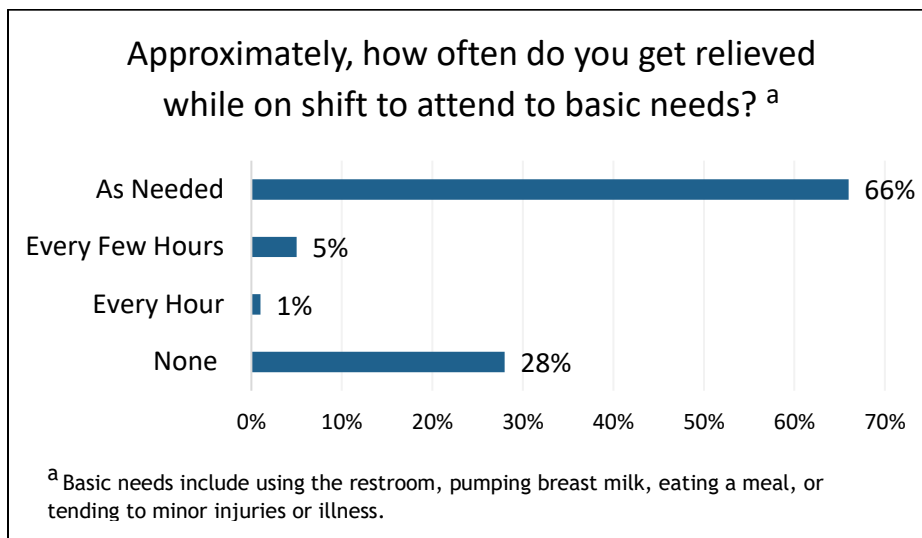


Source: State Auditor's Office survey.

In addition, 16 (11 percent) survey respondents reported having been asked to work past their normal shift ending time and not record that overtime.

Figure 13 shows the survey responses regarding staff being able to attend to basic needs during a shift.

Figure 13



Source: State Auditor's Office survey.

When asked whether they had worked a full shift without being relieved, a majority (78 percent) of survey respondents reported they had received relief for basic needs while working a full shift; however, 33 (22 percent) respondents reported they had worked a full shift or longer without being relieved.

Additional comments about working conditions included unsafe working conditions, no consequences for youth who do not comply with rules, lack of support or training, and facilities are understaffed.

Compensation

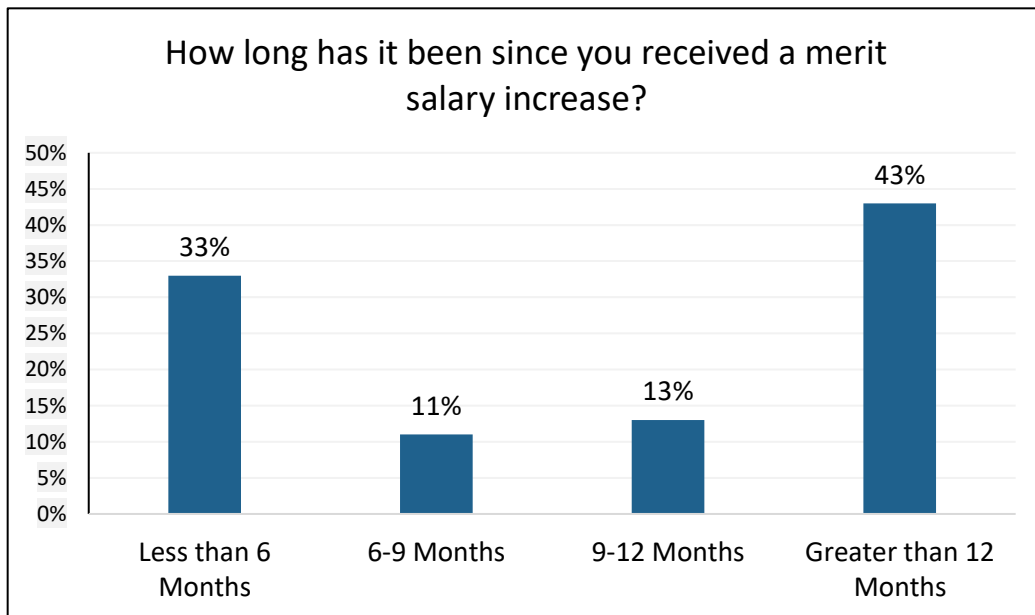
A majority of survey respondents felt fairly compensated with 4 percent having received administrative leave for outstanding performance and 57 percent receiving a merit salary increase in the last 12 months. Table 11 and Figures 14 and 15 show the survey responses to compensation-related questions.

Table 11

Employee Responses to Compensation Questions		
Survey Statements	Respondents Who Agreed with Survey Statement	Respondents Who Disagreed with Survey Statement
Do you feel that you are compensated fairly for your duties and responsibilities?	57%	43%
Does your job description adequately describe your duties and responsibilities?	73%	27%
Have you received any administrative leave for outstanding performance within the last 18 months?	4%	96%
Do you expect to be working for the Department in 2 years?	83%	17%
Do you expect to be working for the Department in 5 years?	72%	28%

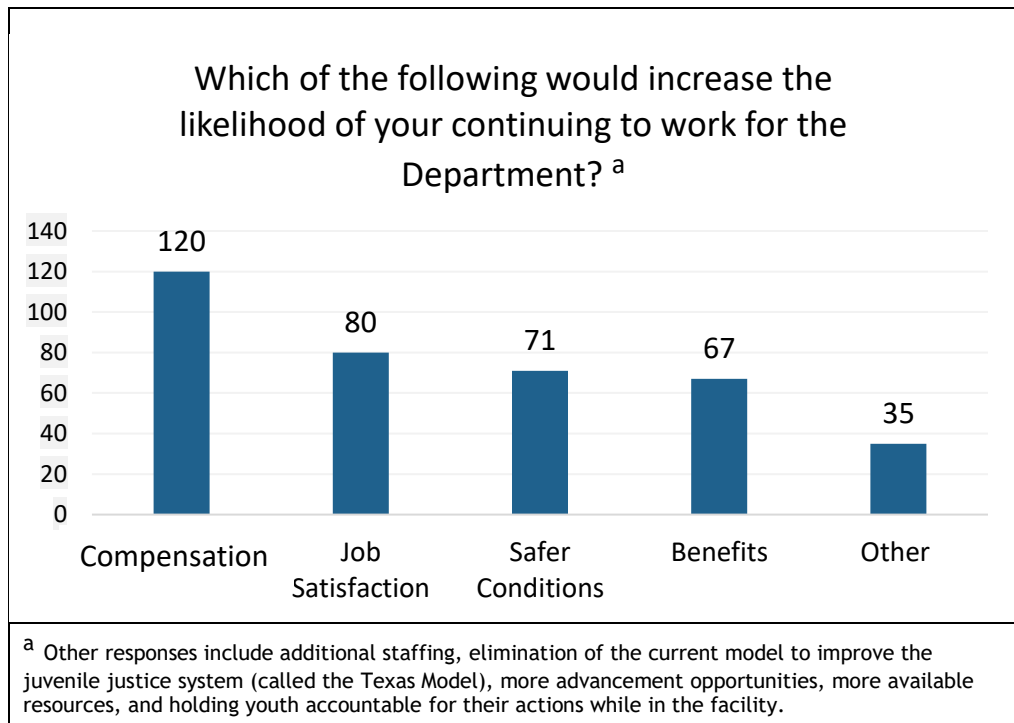
Source: State Auditor's Office survey.

Figure 14



Source: State Auditor's Office survey.

Figure 15



Source: State Auditor's Office survey.

Additional comments about compensation from 34 percent of respondents included:

Compensation is not adequate or comparable to others.

Better communication needed between leadership and staff, as well as more involvement by leadership at the facilities.

Staff are overworked, have long shifts, and lack support.

State-operated Secure Juvenile Justice Facilities

The Juvenile Justice Department (Department) operates five juvenile correctional facilities (also known as secure facilities). Table 12 lists each of the five juvenile correctional facilities, their youth offender capacity (with population as of December 31, 2019), and the number of budgeted employees (with actual employees as of December 30, 2019). See Figure 16 on the next page for a map of the facilities.

Auditors conducted site visits at the following facilities:

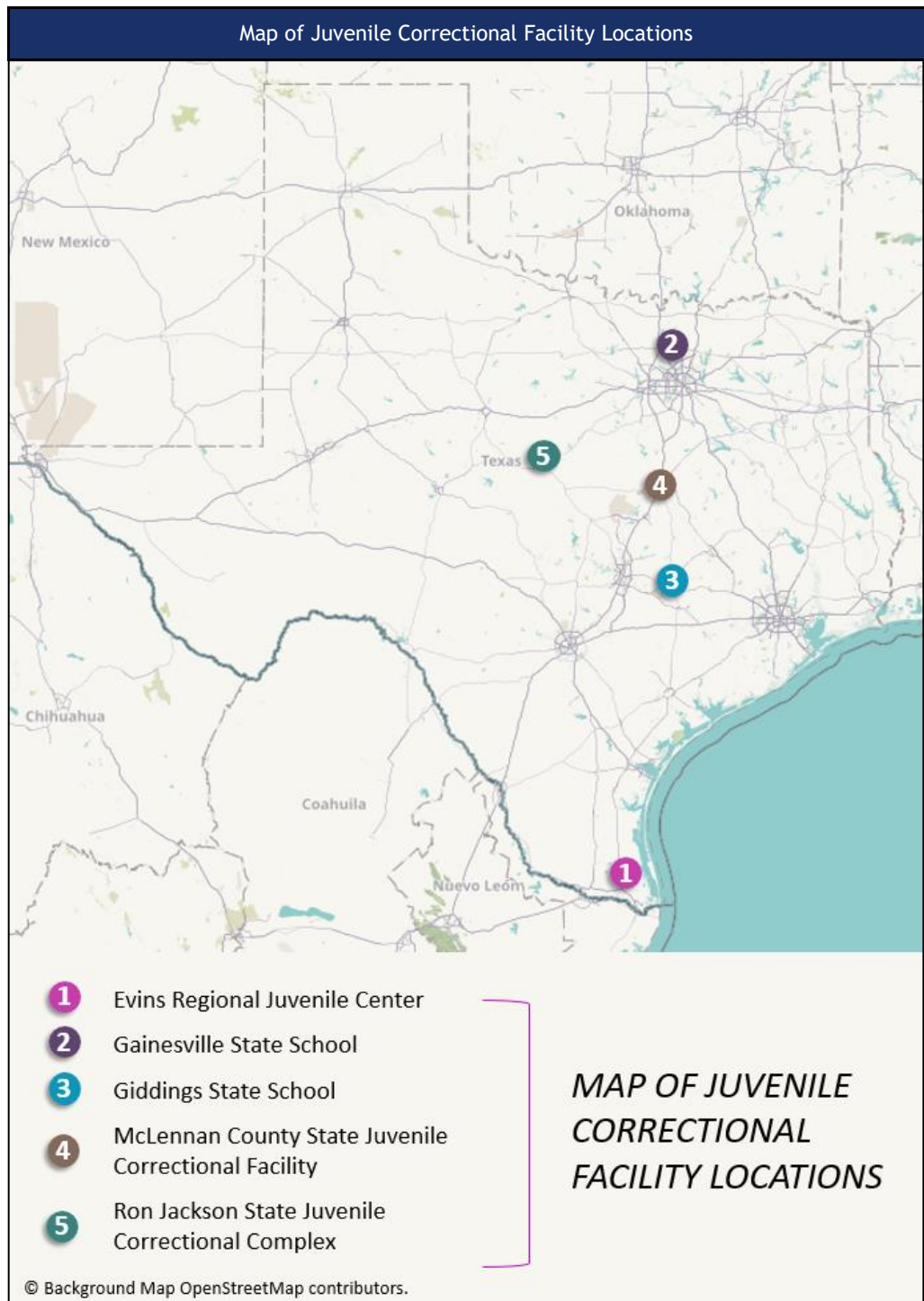
- Evins Regional Juvenile Center.
- Ron Jackson State Juvenile Correctional Complex.
- McLennan County State Juvenile Correctional Facility.

Table 12

Population of Youth and Employees at Juvenile Justice Department State Operated Facilities						
Facility Name	Location on Figure 17	County	Youth Capacity	Youth Population (as of December 31, 2019)	Budgeted Employees	Actual Employees (as of December 30, 2019)
Evins Regional Juvenile Center	1	Hidalgo	209	132	331	267
Gainesville State School	2	Cooke	376	112	346	238
Giddings State School	3	Lee	345	223	431	319
McLennan County State Juvenile Correctional Facility	4	McLennan	555	202	506	359
Ron Jackson State Juvenile Correctional Complex	5	Brown	314	121	395	273

Source: Based on information from the Department.

Figure 16



Source: Based on information from the Department.

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