

July 28, 2016

Lynne Sharp
PREA Ombudsman
Texas Department of Criminal Justice
P.O. Box 99
Huntsville, TX 77342-0099

Re: Request to Investigate Reports of Sexual Abuse

Dear Ombudsman Sharp:

Lambda Legal writes to express grave concern about the safety of several individuals currently housed in various Texas Department of Criminal Justice (“TDCJ”) correctional facilities, who have reached out to our organization seeking help in securing protection from sexual abuse. Lambda Legal is a national organization dedicated to achieving full recognition of the civil rights of lesbian, gay, bisexual, and transgender (“LGBT”) people and those living with HIV through impact litigation, education, and public policy work.

On March 28, 2015, Governor Greg Abbott wrote to the U.S. Department of Justice (“DOJ”), assuring DOJ that Texas would use not less than five percent of its Prison Rape Elimination Act (“PREA”) funds to enable the State to work toward full compliance with DOJ’s PREA standards “wherever feasible.” At the time, Lambda Legal and others welcomed Governor Abbott’s decision not to follow former Governor Rick Perry’s decision to ignore PREA’s protective requirements. We also recognized that this qualified assurance—while a positive step forward—was not sufficient, and we called on Governor Abbott to use his leadership to change the culture and to underscore that sexual violence will not be tolerated in Texas prisons and jails.

More recently, on March 31, 2016, Governor Abbott wrote to DOJ with an assurance that Texas would use not less than five percent of its PREA funds to enable the State to work toward full compliance with DOJ’s PREA standards in future years. While we welcome the removal of the “wherever feasible” qualifier from this most recent assurance, LGBT and other vulnerable people incarcerated in Texas need protection *right now*, not at some undisclosed future date.

The high number of requests for help that Lambda Legal, and other civil rights organizations, routinely receive from people incarcerated in Texas shows that Governor Abbott has not heeded our call and that Texas still does not live up to its constitutional and statutory obligations to keep people in its custody safe from sexual abuse.

Your office encourages family and friends of incarcerated people, as well as the general public, to report allegations of sexual assault in TDCJ correctional facilities for investigation¹ in

¹ https://www.tdcj.state.tx.us/tbcj/tbcj_prea.html

accordance with Section 501.172 of the Texas Government Code. It is your responsibility as PREA Ombudsman to provide an independent office to receive and respond to allegations of sexual assault and to refer allegations to TDCJ's Office of the Inspector General for criminal investigation.

Today, we write to lodge reports of sexual abuse from the following individuals, who have authorized us to do so on their behalf. The details of their allegations are outlined in this letter. We request that you investigate the sexual abuse, assaults, and threats they have reported to us, as set forth below, and that you take concrete actions to help them

Please note that Lambda Legal does not represent these individuals and does not have personal knowledge of the facts included in each complaint. We present the allegations of sexual abuse to your office as each complainant has reported them to us so that you may investigate them and take appropriate action.

Reports of sexual abuse from LGBT people in TDCJ

Report 1. [REDACTED] Complainant 1 ("CI") [REDACTED] is a white transgender woman in TDCJ's custody. CI has survived at least three sexual assaults and constant sexual abuse while housed in safekeeping.

The first sexual assault occurred in the [REDACTED] Unit in [REDACTED]. She was raped by her cellmate, [REDACTED]. She reported the sexual assault, and "free world" charges were lodged against her assailant; but, when she was later transferred to safekeeping at the [REDACTED] Unit, she faced ongoing sexual harassment and extortion from people who had previously sexually abused her and physically assaulted her.

She attempted to speak with [REDACTED] about her experiences via an I-60, but [REDACTED] did not respond to her request to speak with him. She therefore filed a formal grievance because safekeeping was no longer "safe" for her. Her request was denied as her claims could not be "substantiated."

Between the first and second sexual assaults, CI continued to be subjected to sexual abuse, including sexual harassment and extortion. She repeatedly reported the sexual abuse, but TDCJ took no further steps to protect her.

The second sexual assault occurred [REDACTED] years later on [REDACTED], while CI was housed in the [REDACTED] Unit. Again, her assailant was a cellmate, [REDACTED]. She reported the sexual assault. A rape kit was performed, and CI was interviewed by the Safe Prisons Office, which recommended that CI be transferred from the unit so that she could "get a fresh start"—even though her records indicated a long history of sexual victimization that followed her across units.

Nearly [REDACTED] years later, [C1] was sexually assaulted again by yet another cellmate, known as [REDACTED] in the [REDACTED] Unit, the very same unit where she survived her first sexual assault. Today, [C1] is housed in the [REDACTED] Unit, yet another unit where she had been sexually assaulted.

Report 2. [REDACTED] Complainant 2 ("C2") [REDACTED] is a Latina gay transgender woman in the custody of TDCJ. She has been sexually harassed, extorted, and abused since entering the custody of TDCJ. [C2] has been forced to submit to sexual acts for gang members in exchange for protection. She reports that the gang members have "passed [her] around as a sex toy."

[C2] was raped on two occasions. The first rape occurred on [REDACTED], while she was housed in the [REDACTED] Unit. Six hours after she reported the sexual assault, she was finally seen by medical staff and a rape kit was performed. [C2] reports that she felt as if medical staff were attempting to cover up the sexual assault by performing a perfunctory examination and rape kit.

An Offender Protection Investigation (OPI) was initiated after she lodged the report, but her requests for housing in safekeeping or in protective custody were denied. Instead, prison officials told [C2] that LGBT people cannot be raped.

For the remainder of her time in the unit, [C2] continued to experience sexual harassment and abuse. She was sexually extorted and forced to submit to sexual acts for protection without receiving protection from TDCJ.

The second rape occurred in the same unit. Again, she reported the rape, but this time, TDCJ officials said that a rape kit was unnecessary and refused her access to the medical unit. An OPI was conducted, and even though [C2] asked for more protective housing, TDCJ officials kept her in general population, simply moving her to a different unit.

After leaving the [REDACTED] Unit, [C2] continued to request housing in safekeeping, citing her vulnerability to sexual abuse and physical violence. Her requests were repeatedly denied, and in [REDACTED], she was sexually abused again in the [REDACTED] Unit. [C2] went before the Unit Classification Committee ("UCC") and was finally recommended for housing in safekeeping. [C2] wrote to the PREA Ombudsman, who responded that her reports of sexual abuse were "unsubstantiated."

Today, [C2] is housed in the [REDACTED] Unit in general population, where she faces continued abuse and fears for her life.

Report 3. [REDACTED] Complainant 3 ("C3") [REDACTED] is a Black transgender woman who has been in the custody of TDCJ for approximately two years. [C3] reports that, since entering TDCJ's custody, she has survived repeated sexual harassment, extortion, and assault.

[C3] was first assigned to the [REDACTED] Unit, where she was sexually abused by members of the [REDACTED] gang. [C3] informed Security Threat Group ("STG") [REDACTED] about the sexual

abuse, and [C3] was moved to a different area of the unit, only to be subjected to more sexual and physical violence. An inmate known as [REDACTED] physically assaulted [C3] after she refused to provide her commissary to him. [C3] wrote to her mother about the assault. [C3]'s mother contacted the unit on [C3]'s behalf, but instead of protecting [C3] from further victimization, [REDACTED] and [REDACTED] instructed [C3] to learn how to fight.

Throughout her time in the [REDACTED] Unit, [C3] filed many requests for housing in safekeeping. All of her requests were denied, and instead, she was transferred from the [REDACTED] Unit to the [REDACTED] Unit and later to the [REDACTED] Unit. Once in the [REDACTED] Unit, [C3] informed the UCC that she is "transsexual" and at a high risk for sexual victimization.

Disregarding [C3]'s vulnerability, the UCC placed [C3] in the general population, and within five days, she was sexually abused. A leader of the [REDACTED] gang, known as [REDACTED] demanded that [C3] either "ride" for the gang, submitting to sexual favors, or pay for the gang's protection. [C3] refused.

Shortly thereafter, [REDACTED] and another inmate entered [C3]'s cell. [REDACTED] physically restrained and assaulted her while the other inmate sexually assaulted [C3].

Out of fear for her safety, [C3] did not report the sexual assault. [C3]'s [REDACTED] did, but the report seemingly "went nowhere." The next day, [REDACTED] and other members of the [REDACTED] demanded that [C3] pay for their protection. Again [C3] refused, and she was physically assaulted by [REDACTED] and other inmates. [C3] reports that TDCJ staff members were present during the assault, but did nothing to protect her. [C3] suffered a broken nose, and her eyes were swollen shut.

After the attacks, [C3] begged the UCC for placement in safekeeping, but her requests were denied. She was simply transferred to the [REDACTED] Unit. When she arrived at the [REDACTED] Unit, she again identified herself as "transsexual" and pleaded to the UCC for housing in safekeeping. Safe Prisons Program staff members [REDACTED] and her assistant denied [C3]'s request for safekeeping and encouraged her "to give the unit a try."

One of [C3]'s cellmates was [REDACTED], a member of the [REDACTED] gang. When [C3] first entered the cell, [REDACTED] jumped from his bunk with a shank and forced [C3] to perform oral sex on him. After [C3] complained to an officer about her cellmate, she was moved to another cell. While in her new cell, inmates approached [C3], demanding payment for protection and threatening [C3] with physical violence if she refused.

[C3] wrote to the PREA Ombudsman, detailing the sexual abuse she had survived, and she also spoke with a TDCJ officer, [REDACTED], about the sexual assault and related extortion. But, at a UCC hearing, [C3]'s pleas for protection and placement in safekeeping were denied, and despite [C3]'s history of sexual victimization, she was returned to the general population, where she continued to face threats to her safety.

Eventually, [C3] was transferred to the [REDACTED] Unit, where she again self-identified as “transsexual” and requested housing in safekeeping. Her request was denied. Other inmates soon began to sexually harass and abuse [C3].

On [REDACTED], [C3] was physically attacked again, resulting in permanent damage to her right eye. [REDACTED] days later, TDCJ finally approved housing [C3] in safekeeping—offering protection only after [C3] endured multiple sexual and physical assaults that resulted in permanent physical damage.

Report 4. [REDACTED] Complainant 4 (“C4”) is a biracial, gender-variant person with an intersex condition, who has reported to Lambda Legal several experiences of sexual abuse while incarcerated in TDCJ.²

[C4]’s first experience of sexual assault occurred while they were housed in the [REDACTED] Unit in [REDACTED]. Confused and scared, [C4] did not report the sexual assault.

[REDACTED] years later, in [REDACTED], [C4] was sexually assaulted again at the [REDACTED] Jail. This time, they reported the sexual assault to TDCJ authorities; but, instead of taking action against [C4]’s assailant, TDCJ placed [C4] in lockup and transferred [C4] to another unit. [C4] no longer trusted TDCJ staff members to take the necessary steps to protect them.

As a result, when [C4] was sexually assaulted and extorted in the [REDACTED] Unit between [REDACTED] and [REDACTED], they did not report the sexual assaults to TDCJ officers. [C4] explains, “I was scared to report anything for fear of being labeled a snitch, and the [a]dministration would not protect me as they had always done.”

When [C4] returned to the custody of TDCJ in [REDACTED], they decided that they could no longer live in general population and be subjected to continual sexual abuse. Realizing they were vulnerable to sexual abuse due to their gender identity, they repeatedly requested placement in safekeeping. All of their requests were denied. One TDCJ staff member, [REDACTED], told [C4] that they would “never be put in safekeeping” because their “IQ is to[o] high[,] and your body size is to[o] big.”

[C4] continued to face sexual abuse and threats to their safety, and they became desperate. In hopes of being placed in solitary confinement, [C4] told TDCJ officials that they planned to escape. [C4] reasoned that, at least this way, they would be safe from abuse.

² Because [C4] is a gender-variant person with an intersex condition, we use the pronoun “they” when referring to [C4]. “They” has gained widespread usage amongst people who do not identify within a binary system of gender (i.e., male/female). See also ‘They,’ the Singular Pronoun, Gets Popular, The Wall Street Journal, April 10, 2015 at <http://www.wsj.com/articles/can-they-be-accepted-as-a-singular-pronoun-1428686651>; Writing Around Gender, The New York Times, Feb. 6, 2015 at <http://www.nytimes.com/times-insider/2015/02/06/writing-around-gender>.

In [REDACTED], they were placed in administrative segregation, where they have been housed for [REDACTED]. But even in administrative segregation, [REDACTED] C4 is subjected to sexual abuse from TDCJ staff members. For example, on [REDACTED], [REDACTED] and [REDACTED] made derogatory comments about [REDACTED] C4's penis and testicle size, "saying [that their] jock strap looked like a G-string." [REDACTED] C4 filed a Step 1 Grievance regarding [REDACTED] and [REDACTED]'s behaviors, but the grievance was never returned, and seemingly no investigation was initiated.

Report 5. [REDACTED] Complainant 5 ("C5") [REDACTED] is a white gay man in the custody of TDCJ. Since entering TDCJ in [REDACTED], [REDACTED] C5 has been a survivor of repeated sexual abuse. He has been coerced into sexual relationships with other inmates for protection. [REDACTED] C5 reports that, on one occasion, he was "sold" for 65 dollars and forced to submit to a sexual relationship with an inmate. [REDACTED] C5 has been registered with the Safe Prisons Program since [REDACTED].

[REDACTED] C5 has also witnessed acts of sexual abuse and physical violence perpetuated against his fellow inmates. Currently, [REDACTED] C5 is housed in the [REDACTED] Unit, where he reports to us that there have been very high levels of sexual violence in [REDACTED]. Yet, [REDACTED] C5 states that TDCJ officers do nothing to address this problem and reports that they knowingly place vulnerable inmates in cells with known sexual perpetrators.

Report 6. [REDACTED] Complainant 6 ("C6") [REDACTED], a self-identified white transsexual woman, has been in the custody of TDCJ since [REDACTED]. She reports that she has survived continued sexual abuse and multiple sexual assaults throughout this time.

In [REDACTED], [REDACTED] C6 was sexually assaulted while in the [REDACTED] Unit. Thereafter, she was placed in safekeeping, where she remained until [REDACTED], when she was placed in administrative segregation. During her placement in administrative segregation, [REDACTED] C6 was moved from the [REDACTED] Unit to the [REDACTED] Unit and, finally, to the [REDACTED] Unit. While in the [REDACTED] Unit, [REDACTED] C6 was continually sexually extorted, abused, and forced to enter into sexual relationships for protection.

After nearly [REDACTED] years, [REDACTED] C6 was released from administrative segregation and moved to the [REDACTED] Unit [REDACTED]. While in the [REDACTED] Unit, [REDACTED] C6 was sexually extorted by gang members, who threatened her life and safety. As a result, [REDACTED] C6 was transferred to the [REDACTED] Unit, which does not have safekeeping.

Once she arrived at the [REDACTED] Unit, [REDACTED] C6 vehemently protested her placement in general population and reported the sexual abuse she soon faced in the unit. At one point, she was sexually assaulted by two inmates while in the shower. She submitted several grievances and requested rehousing in safekeeping, but her requests were denied. TDCJ simply transferred [REDACTED] C6 back to the general population of the [REDACTED] Unit.

Again, C6 was targeted and sexually abused in the [REDACTED] Unit. She began receiving threats to her safety, and she sent letters to [REDACTED] and Safe Prisons [REDACTED] on [REDACTED] and [REDACTED], respectively. In those letters, she begged for an Offender Protection Investigation (OPI) to be conducted and to be placed in safekeeping. She did not receive a response.

[REDACTED] days later, on [REDACTED], C6 was physically and sexually assaulted twice by her cellmate, [REDACTED], a known member of the [REDACTED]. [REDACTED] demanded C6 “ride” (submit to sexual favors) for the [REDACTED], and when C6 refused, [REDACTED] hit her in her face and raped her.

The next morning, on [REDACTED], C6 reported the assault and was transferred to [REDACTED] in [REDACTED], Texas. A rape kit was performed, and the forensic doctor noted abrasions and bruising consistent with injuries sustained during a sexual assault—yet TDCJ found C6’s sexual assault to be “unsubstantiated.”

On [REDACTED], the UCC denied C6’s request for safekeeping, and C6 reports being told that no matter what happened to her, she would not be housed in safekeeping. Instead, UCC recommended C6 for a unit transfer. Awaiting unit transfer, C6 was placed in transient status, where her assailant began extorting her again, offering payment to her if she recanted her report of sexual assault.

C6 was transferred to the [REDACTED] Unit, still in general population. Upon arriving at the unit, she informed officials about her history of sexual abuse. C6 reports that TDCJ officials, including Safe Prisons Program officers, informed her that if problems similar to her prior victimization arose in the [REDACTED] Unit, they would falsify C6’s records and mark her as a sexual predator on heterosexual inmates. Further, [REDACTED], a Safe Prisons Officer, threatened C6 with disciplinary action for filing reports of sexual assault and told her that [REDACTED] Unit officials planned to transfer her since “they don’t allow transsexuals to stay on this unit.”

In [REDACTED], C6 was transferred to the [REDACTED] Unit and housed in a unit with a [REDACTED] gang member. Today, C6 fears for her safety. Her [REDACTED], [REDACTED], contacted the Safe Prisons/PREA Office in Huntsville to express her concerns for C6’s safety. [REDACTED] was instructed to contact the [REDACTED] Unit and lodge her complaints with the unit’s Safe Prisons/PREA Office. She did so, but no one from the [REDACTED] Unit spoke with her. C6 then sent a letter, on [REDACTED], to the Office of the Inspector General (OIG), requesting an investigation into her situation.

Report 7. Complainant 7 (“C7”) is a Black transgender and gender-fluid person who is same-gender loving. C7 has been in the custody of TDCJ since [REDACTED]. C7 reports surviving repeated sexual harassment, extortion, and assault.

Prior to entering TDCJ, [C7] was placed in protective custody status while in [redacted] Jail because [C7] had been sexually assaulted in the general population. Upon entering TDCJ, [C7] was placed immediately in lockup, pending review by the UCC. Ultimately, the UCC directed [C7] "to give general population a try," even though [C7] had a history of victimization.

Once in general population, [C7] was sexually extorted and threatened. [C7] reported the extortion and threats to several officers, requesting placement in safekeeping. The UCC denied [C7]'s request and continued to house [C7] in lockup.

[C7] was shuffled from one unit to the next. After [redacted] unit transfers, [C7] was housed in the [redacted] Unit, where known sexual predators soon began sexually harassing, extorting, and threatening [C7]. Again, [C7] reported the harassment and threats. [C7] was placed in lockup and the UCC denied [C7]'s request for safekeeping.

[C7] was returned to the general population, only to face repeated sexual abuse for [redacted] months between [redacted] and [redacted]. [C7] reported the sexual abuse to several TDCJ officers, filed Life-In-Danger ("LID") complaints, and even submitted requests for help to central TDCJ offices in Huntsville – all to no avail. In [redacted], [C7] went before the UCC, only to be told that LGBT people cannot be sexually assaulted.

In [redacted], [C7] wrote to TDCJ officials in Huntsville and begged for help after yet another sexual assault. In response, [C7] believes that a Safe Prisons officer, [redacted], filed false disciplinary cases against [C7] because [C7] highlighted [redacted]' failure to take seriously [C7]'s reports of sexual abuse in the letter. As a result, [C7] was placed in administrative segregation and remained there for more than [redacted] years, even though [C7] had no major disciplinary cases.

In [redacted], [C7] was released from administrative segregation. [C7] was transferred to the [redacted] Unit [redacted]. Upon completion of the program, [C7] was transferred to the [redacted] Unit, which does not offer safekeeping.

Report 8. [redacted] Complainant 8 ("C8"), a white gay male, has been in the custody of TDCJ since [redacted].

Between [redacted] and [redacted], [C8] was sexually extorted by a [redacted] gang member, [redacted]. In order to receive protection, which TDCJ did not provide, [C8] submitted to a sexual relationship with [redacted]. But, when [C8] refused to submit to [redacted]'s demands to perform sexual acts for other members of the [redacted] gang, [redacted] physically assaulted [C8], striking [C8]'s face.

When [C8] began to receive death threats from other members of the [redacted] gang, he tried to report the sexual abuse again, on [redacted]. This time he was successful, but when [C8] was seen by the UCC, [redacted] stated, "Go back where you came from" and returned [C8] to the general population.

On [redacted], at approximately [redacted], [redacted] of the Safe Prisons Program refused [C8]'s request to file additional information regarding the sexual abuse, calling [C8] a "faggot" and stating, "[T]here is no way I would ever recommend safe-keeping or any type of transfer for you, no matter what happens."

[C8] filed Step 1 and Step 2 grievances regarding the incidents. In at least one grievance, [C8] specifically requested housing in safekeeping to protect him from continued sexual extortion, abuse, and death threats. His requests were denied, and [C8] was attacked and beaten by other inmates, resulting in partial loss of hearing and vision, as well as cognitive damage. He was formally diagnosed with a Traumatic Brain Injury.

In [redacted], [C8] was sexually harassed and extorted by a TDCJ employee, a [redacted] named [redacted], who forced [C8] to bend over in front of other staff members and inmates. [redacted] also forced [C8] to submit to sexual acts. [C8] reports that, when he stopped submitting to these demands, [redacted] retaliated against him with false disciplinary reports. [C8] reported the sexual harassment and extortion to TDCJ officials.

Report 9. [redacted] Complainant 9 ("C9") [redacted] is a bisexual transgender woman currently incarcerated in TDCJ at the [redacted] Unit.

[C9] has been subjected to sexual harassment by TDCJ officers and other inmates. TDCJ officers sexually harass [C9] during strip searches, making degrading statements about [C9]'s body, like "Better-looking legs than a real bitch; it's too bad that ass isn't on a real bitch!" Meanwhile, other TDCJ employees and inmates threaten and harass [C9].

Report 10. [redacted] Complainant 10 ("C10") [redacted] is a Black gay man who is currently incarcerated at the [redacted] Unit in TDCJ.

[C10] has been sexually assaulted three times while in the custody of TDCJ. On two occasions he reported the sexual assaults, but he states that TDCJ staff members ignored his reports, stating that they did not "give a damn" about his safety.

During past incarcerations, [C10] was housed in safekeeping, but he is currently housed in general population, despite his vulnerability to abuse. [C10] therefore faces continued sexual abuse. For example, on [redacted], [C10]'s cellmate, a member of the [redacted] named [redacted], physically assaulted [C10] after [C10] refused to leave the cell so that [redacted] could masturbate. An OPI was conducted, and [C10] requested housing in safekeeping. [C10]'s

request was denied, and he was moved to a different building, where he continues to fear for his safety and life.

Report 11. Complainant 11 ("C11") is a white gay individual who self-identifies as non-gender and bi-gender, is severely hearing impaired, and suffers from the effects of a traumatic brain injury. C11 reports having been raped, beaten, and extorted.

Throughout [redacted] and [redacted], while in the [redacted] Unit, C11 was repeatedly beaten and sexually assaulted for refusing to join a gang. C11 reported the first sexual assault to TDCJ officials. C11 states that, in response to this report, two [redacted], [redacted] and [redacted], physically assaulted C11 until C11 agreed to recant. [redacted] and [redacted] proceeded to place C11 in pre-hearing detention for [redacted] days "until the bruises were gone." Once released from pre-hearing detention, C11 was forced to sign a paper denying the sexual assault.

C11 continued to experience multiple physical and sexual assaults from other inmates. C11 attempted to report these attacks to TDCJ officers, but whenever C11 did so, TDCJ officers placed C11 into administrative segregation. Other times, TDCJ officers would submit false reports from medical personnel stating that C11 sustained physical injuries as the result of seizures.

Although TDCJ officials denied C11's history of and vulnerability to sexual abuse, TDCJ placed C11 in safekeeping in [redacted] and transferred C11 to the [redacted] Unit. For the next [redacted] years, C11 reported no sexual victimization or abuse; but, in [redacted], safekeeping inmates were moved to a less secure area of the [redacted] Unit. Safekeeping officers also became lax in following security measures, allowing general population inmates frequent contact with safekeeping inmates. In [redacted], C11 was sexually assaulted in the [redacted] chow hall at the [redacted] Unit. C11 reported the sexual assault via a Step 1 grievance, but the grievance was never returned to C11.

C11 was sexually assaulted again [redacted] years later, on [redacted]. C11 was with other safekeeping inmates in the [redacted] shower area, which is adjacent to the [redacted] area. C11 reports that, [redacted], a female [redacted] officer, unlocked the door separating the shower and [redacted] area, allowing general population inmates to enter the shower area. One general population inmate named [redacted] approached C11, sexually molested C11, and then forcibly penetrated C11's anus with a finger while Officer [redacted], Officer [redacted] (the [redacted]), and Officers [redacted] and [redacted] ([redacted]) watched.

After the sexual assault, Officers [redacted], [redacted], and [redacted] ordered C11 to return to the wing. They refused to call superior officers for assistance, and C11 was denied access to the Safe Prisons Coordinator, [redacted]. Only after a safekeeping officer demanded a superior officer's help did [redacted] visit C11's cell to discuss the incident. But, [redacted] refused C11's requests to receive medical attention and to file an official report.

Instead, [REDACTED] threatened [C11] by saying that either [REDACTED] or [REDACTED] “should kick [C11]’s] ass.” [C11] filed a Step 1 and Step 2 grievance regarding the officers’ misconduct and the sexual assault on [REDACTED]; TDCJ officials responded that “no TDCJ policy [was] violated” and denied all claims of staff misconduct.

Today, [C11] remains in fear of harassment, abuse, and assault by other inmates but is “more worried about the officers[?] retaliation or their use of inmates to retaliate.”

Report 12. [REDACTED] Complainant 12 (“C12”) [REDACTED] is a white gay man who reports that he was raped twice while housed in the [REDACTED] Unit in [REDACTED].

[C12] was first sexually assaulted by another inmate named [REDACTED]. [C12] tried to report the sexual assault to [REDACTED] and [REDACTED] on the way to dinner, but they summarily dismissed [C12] instructing him to return to his cell and “to quit lying.” Determined to report the assault, [C12] filed three grievances after [REDACTED] and [REDACTED] refused to allow him to report the sexual assault. He reports that all three grievances were “lost.”

Within the same month, [C12] was sexually assaulted again. His assailant, known as [REDACTED], was a friend of [REDACTED], his first assailant, and [C12] believes the second rape was “punishment” for attempting to report the first rape. [C12] thinks that both [REDACTED] and [REDACTED] were members of the [REDACTED] gang. [REDACTED] threatened [C12]’s life if he attempted to report the sexual assault. This threat, coupled with [C12]’s previous experiences trying to report the first sexual assault, dissuaded him from trying to report the second. He did not believe that TDCJ would take any steps to protect him.

[REDACTED] months later, [C12] was transferred from the [REDACTED] Unit to the [REDACTED] Unit. Upon arriving at the [REDACTED] Unit, [C12] reported both sexual assaults. But, by that point, there was no remaining physical evidence, and neither sexual assault was found substantiated. [C12] lives in constant fear that other [REDACTED] gang members will learn that he has “snitched.”

Report 13. [REDACTED] Complainant 13 (“C13”) [REDACTED] is a white gay man currently housed at the [REDACTED] Unit in TDCJ. [C13] reports that, on [REDACTED], he was sexually assaulted by his cellmate, [REDACTED], who is serving a life sentence for sexual assault.

After the sexual assault, [C13] alerted the cell block officer. [C13] and [REDACTED] were removed from the cell, and [C13] was taken to medical. There, he was placed naked in a cell for four hours. [C13] was then transferred to the [REDACTED] in [REDACTED], Texas, where a rape kit was performed. [C13] suffered anal abrasions. After treatment at [REDACTED], [C13] was returned to the [REDACTED] Unit and placed in lockup.

█ later, on █, Safe Prisons/PREA Officer █ interviewed █ C13 about the sexual assault. She accused him of lying, stating that other inmates told her that the sexual assault did not occur and that she did not need "this kind of shit being said on [her] unit."

█ C13 had a similar experience at the ensuing UCC hearing, on █. █ and █ called █ C13 a liar and said they did not want "heat," or negative attention, focused on the unit. █ and █ stated that █ C13 could not have been raped because he is gay. UCC decided to transfer █ C13 to another unit.

The following █, a family friend visited █ C13, and █ C13 informed his friend about the sexual assault. █ C13's friend filed several complaints with TDCJ. Approximately █ later, █ C13 was taken back to UCC, where █ requested that █ C13 ask his family members and friends to stop filing complaints because they were "drawing attention to the unit." █ also said █ C13 would again be transferred to another unit.

Nearly █ days after the sexual assault, █ C13 received a disciplinary for "consensual sexual activity." █ C13 went before a disciplinary board, where he was found guilty of engaging in consensual sexual activity with █, his assailant. █ C13 appealed the decision, stating that the interaction was "at no time...consensual [sic] sex[;] it was what I've said it was from the start[:] sexual assault." █ C13 requested that the disciplinary conviction be dismissed. His appeal was denied.

As a result of the conviction, █ C13 was placed in administrative segregation. Officers and inmates routinely harass █ C13. Officers frequently walk by █ C13's cell and call him a "fag," "queer," "boy who got booty," and a "snitch," while inmates threaten him with violence. He fears for his life, but no longer files grievances for fear of retaliation.

Approximately █ year after being placed in administrative segregation, █ C13 asked an officer, █, when he will be released from administrative segregation. █ C13 reports that █ responded, "I know you, █ C13. I was a █ in the building when you filed rape, and I had to do four and a half hours of paperwork on you. So no, you will never get out of [administrative segregation]."

A friend hired an attorney on █ C13's behalf to challenge the disciplinary conviction that placed him in administrative segregation. The attorney presented the disciplinary challenge to TDCJ █ and █. █ C13 reports that no decision has been made because TDCJ reportedly refuses to make a decision until DNA results are received from █ C13's rape kit.

Report 14. █ Complainant 14 ("C14") █ is a white self-identified queer person, who uses feminine pronouns, and has been in the custody of TDCJ since █. Like many other LGBT people in TDCJ's custody, █ C14 reports that she has suffered repeated sexual and physical abuse.

In [REDACTED], [REDACTED] C14 was placed in closed custody where she was housed in a cell with another inmate every day for 23 hours each day. One of these cellmates, a member of the [REDACTED] gang, learned of [REDACTED] C14's gender identity and preferred name and began to sexually harass her. When [REDACTED] C14 refused his sexual advances, he physically assaulted her.

As a result of the assault, [REDACTED] C14 was moved to a different cell, but she was rehoused with another member of the [REDACTED] gang. This new cellmate soon began to sexually harass and extort [REDACTED] C14, demanding sexual favors as "payment" for protection. [REDACTED] C14 refused, and her cellmate told her she should move to a different cell. Before she could speak with "rank," or a high-ranking officer, her cellmate exposed his penis to her and demanded that she perform oral sex on him or else he would kill her before TDCJ officers arrived. Scared for her life, [REDACTED] C14 submitted to his demand. Thereafter, her assailant told her that she was now his "punk" and would submit to sexual acts for the entire gang. He then forced [REDACTED] C14 to perform oral sex on him again.

Afterwards, her cellmate demanded anal sex with [REDACTED] C14. She got the attention of two guards, who called [REDACTED] C14 "a catch-out pussy" and a "coward," and refused to call a higher-ranking officer to help. She insisted on speaking with "rank," and eventually, a sergeant responded. But, like the two guards before him, the sergeant verbally abused [REDACTED] C14, calling her a "catch out" and a "punk" as he transported her to the infirmary.

[REDACTED] C14 reports that, before she could see medical staff, the guards and sergeant pushed her up against a wall, called her a "sissy," and told her that she would be housed wherever they placed her. They put their hands in her face, and when she moved her head, they pushed her to the ground, punched, and kicked her. A nurse helped [REDACTED] C14 to her feet and asked if [REDACTED] C14 had been hurt. [REDACTED] C14 told the nurse that she had been hurt and also reported to the nurse that she had been sexually assaulted. A rape kit was performed, and an investigation into the staff members' use of force was mounted.

After these attacks, [REDACTED] C14 requested housing in safekeeping. She was placed in transient status, but was returned to the general population after her request for safekeeping was denied. Once she returned to the general population, several guards approached her, asking what steps she was going to take in the pending sexual assault and excessive force cases. Afraid, [REDACTED] C14 decided to drop the cases, telling TDCJ she had lied about both—despite the evidence to the contrary. A short time later, she was transferred to the [REDACTED] Unit in [REDACTED].

Soon after [REDACTED] C14's arrival to the [REDACTED] Unit, several inmates from the [REDACTED] Unit were transferred to her new unit. The other inmates started telling others in the unit about the sexual abuse she had previously sustained, characterizing her as a "punk," a person who has been raped or "turned out." Members of the gang, [REDACTED], began sexually extorting her, demanding that she "ride," or perform sexual favors, for the gang. She refused.

In retaliation, members of ██████ physically assaulted her on several occasions. Scared of retribution for being marked a “snitch,” C14 did not alert TDCJ staff about the abuse she suffered, hoping that if she fought long enough and did not “snitch,” ██████ would leave her alone.

C14 was wrong. She was eventually rehoused with an associate of ██████ and a known sexual predator, even though TDCJ was aware of her vulnerability to sexual victimization. Her cellmate repeatedly propositioned her for sex. She refused but was awakened, several times, by her cellmate masturbating on her. He also attempted to rape her several times.

One day, her cellmate produced a shank and showed it to C14. She immediately filed an I-60, requesting a new cellmate, but TDCJ moved both her and her cellmate into the same transient cell. She submitted another I-60, again asking for a different cellmate. She never received a response.

Meanwhile, her cellmate’s sexual aggression escalated. One night, C14 woke up to find her cellmate pulling her underwear aside. In one hand, he held his shank; in the other hand, he grasped his penis. He stuck his penis between her buttocks and sexually assaulted her. C14 was scared for her life.

The following day, her assailant told C14 that she now belonged to ██████ gang. When she objected, he physically assaulted her. She fought him, but he stabbed C14 five times in her left side with his shank. She was “life flighted,” or transported via helicopter, to an outside medical facility, where she remained for almost a week. When C14 returned to the unit, she was told that she would be transferred to another unit, but the transfer was later denied when her assailant was transferred to a different unit.

C14 thought she was safe, but, in or around ██████ or ██████, five ██████ gang members physically assaulted her. She suffered multiple facial contusions and two black eyes.

Still hoping that if she did not “snitch” she would be left alone, C14 did not report the assault, even after TDCJ initiated its own investigation. C14 told the investigating officers that her injuries were the result of “horseplay.” After that, C14 had some reprieve until ██████, a gang member from C14’s prior unit, arrived to the ██████ Unit. Once in the ██████ Unit, he began telling others that C14 was his and his gang’s “punk.” C14 objected, and the gang member attacked her in the day room.

C14 wants to be placed in safekeeping for the remainder of her sentence, but TDCJ officials have denied her protective housing, despite her extensive history of sexual abuse and victimization.

Sexual abuse of LGBT people is a systemic problem in TDCJ

Over the past three years, Lambda Legal has received numerous reports from survivors of sexual abuse in TDCJ, most of whom are LGBT. This letter does not include all of the people incarcerated in TDCJ who have contacted Lambda Legal complaining of sexual abuse. Nor does it include the many individuals suffering from sexual abuse who have not reached out to us because they do not know whom to contact for help, believe that asking for help will be futile, or fear retaliation.

Institutional sexual violence disproportionately affects LGBT people. The federal government has documented the high rates of abuse against people in men's corrections facilities who are or are perceived to be LGBT. DOJ's Bureau of Justice Statistics ("BJS"), charged with collecting, analyzing, and publishing data related to crime in the United States, produced the National Former Prisoner Survey, showing that 38.6% of gay male former prisoners and 33.7% of bisexual male former prisoners reported sexual victimization by another prisoner during incarceration as compared with only 3.5% of heterosexual former male prisoners.³

In addition to reports of abuse by other prisoners, gay and bisexual prisoners reported significantly higher rates of abuse by staff than did their heterosexual counterparts, with rates of staff abuse of 5.2% against heterosexual men, as contrasted with 17.5% and 11.8% of bisexual and gay men, respectively.⁴

BJS estimated that transgender prisoners held in United States prisons are about ten times more likely to have been sexually assaulted, as compared to people in the general prison population (at least 39% of transgender prisoners, as compared to 4% of the general prison population).⁵

LGBT people's vulnerability to sexual abuse is well known within the correctional community, including DOJ, the National Institute of Corrections ("NIC"), and the American Jail Association. As the NIC has noted, while incarcerated, "men and women with non-heterosexual orientations, transgender individuals, and people with intersex conditions were highly vulnerable to sexual abuse."⁶

The high number of complaints Lambda Legal has received prompted us to act, and in October 2014, we filed a lawsuit on behalf of Passion Star, a Black transgender woman who has been

³ Allen J. Beck, Bureau of Justice Statistics, U.S. Dep't of Justice, *Sexual Victimization Reported by Former State Prisoners*, 2008, 16 (May 2012), <http://www.bjs.gov/content/pub/pdf/svrfsp08.pdf>.

⁴ *Id.*

⁵ Allen J. Beck, Bureau of Justice Statistics, U.S. Dep't of Justice, *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12 – Supplemental Tables* (Dec. 2014), http://www.bjs.gov/content/pub/pdf/svpjri1112_st.pdf; see also Allen J. Beck, Bureau of Justice Statistics, U.S. Dep't of Justice, *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-2012*, 10 (2013), <http://www.bjs.gov/content/pub/pdf/svpjri1112.pdf>.

⁶ <https://s3.amazonaws.com/static.nicic.gov/Library/027507.pdf>

sexually and physically assaulted while in TDCJ's custody— and just one of the many people who have contacted us for help.⁷

Ms. Star wrote to the PREA Ombudsman's Office headed by your predecessor, Ralph Bales, on several occasions, alerting him to the threats against her and requesting to be placed in safekeeping. But despite a previous, documented sexual assault, on April 8, 2015, the PREA Ombudsman wrote that "[t]he unit administration was unable to substantiate [her] allegations."

In the letter, Mr. Bales was clear that "unsubstantiated" meant that the evidence he received from the unit administration was insufficient to determine if the incident had or had not occurred. Discounting Ms. Star's own statement about the threats she faced, Mr. Bales closed the inquiry from Ms. Star without independently investigating it to verify the report he received from the unit. Subsequently, Ms. Star was attacked again by an incarcerated person trying to coerce her into an unwanted sexual relationship. During the attack, Ms. Star's face was slashed eight times with a razor, leaving her with lifelong scars.

We ask that you thoroughly investigate the allegations in this letter. TDCJ's Safe Prison/PREA Plan, as well as PREA, requires a zero tolerance policy toward all forms of sexual abuse and sexual harassment. To create a culture where freedom from sexual abuse is the norm, it is crucial that your office promptly and thoroughly investigates complaints; takes immediate action to protect people complaining from abuse and retaliation; and takes an active role in the investigation, including interviewing alleged victims, suspected perpetrators, and witnesses, and reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator.

We hope that your Office will comply with its statutory duty to work towards eliminating sexual abuse in TDCJ. The health, well-being, and often the very lives of LGBT people and other vulnerable people being held in TDCJ, depend on it.

Sincerely,



Richard Saenz
Staff Attorney and Criminal Justice and Police Misconduct Program Strategist
Lambda Legal Defense & Education Fund, Inc.

cc: Hon. Dale Wainwright, Chairman, Texas Board of Criminal Justice

⁷ Passion Star's legal name is Joshua Zollicoffer.