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/tbcr/tbcr_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. Complainant 1 ("C1") is a white transgender woman in TDCJ’s custody. C1 has survived at least three sexual assaults and constant sexual abuse while housed in safekeeping.

The first sexual assault occurred in the ___ Unit in ___. She was raped by her cellmate, _________. She reported the sexual assault, and “free world” charges were lodged against her assailant; but, when she was later transferred to safekeeping at the ___ 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 _______ about her experiences via an I-60, but _______ 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, C1 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 ___ years later on ________, while C1 was housed in the ___ Unit. Again, her assailant was a cellmate, _________. She reported the sexual assault. A rape kit was performed, and C1 was interviewed by the Safe Prisons Office, which recommended that C1 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 years later, C1 was sexually assaulted again by yet another cellmate, known as in the Unit, the very same unit where she survived her first sexual assault. Today, C1 is housed in the Unit, yet another unit where she had been sexually assaulted.

**Report 2.** Complainant 2 ("C2") 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 , while she was housed in the 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 Unit, C2 continued to request housing in safekeeping, citing her vulnerability to sexual abuse and physical violence. Her requests were repeatedly denied, and in , she was sexually abused again in the Unit. C2 went before the Unit Classification Committee ("UCC") and was finally recommended for housing in safekeeping. C2 wrote to the FREA Ombudsman, who responded that her reports of sexual abuse were “unsubstantiated.”

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

**Report 3.** Complainant 3 ("C3") 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 Unit, where she was sexually abused by members of the gang. C3 informed Security Threat Group ("STG") 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 ___ 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, _______ and _______ instructed C3 to learn how to fight.

Throughout her time in the ___ Unit, C3 filed many requests for housing in safekeeping. All of her requests were denied, and instead, she was transferred from the ___ Unit to the ___ Unit and later to the ___ Unit. Once in the ___ 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 ___ gang, known as ___ demanded that C3 either “ride” for the gang, submitting to sexual favors, or pay for the gang’s protection. C3 refused.

Shortly thereafter, ___ and another inmate entered C3’s cell. ___ 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 ___ did, but the report seemingly “went nowhere.” The next day, ___ and other members of the ___ demanded that C3 pay for their protection. Again, C3 refused, and she was physically assaulted by ___ 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 ___ Unit. When she arrived at the ___ Unit, she again identified herself as “transsexual” and pleaded to the UCC for housing in safekeeping. Safe Prisons Program staff members _______ and her assistant denied C3’s request for safekeeping and encouraged her “to give the unit a try.”

One of C3’s cellmates was ________, a member of the ___ gang. When C3 first entered the cell, ______ 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, _________ 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 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 __________, C3 was physically attacked again, resulting in permanent damage to her right eye. ___ 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. 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 Unit in __________. Confused and scared, C4 did not report the sexual assault.

___ years later, in __________, C4 was sexually assaulted again at the 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 Unit between __________ and __________, 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 __________, 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, ____________, 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.

In [redacted], they were placed in administrative segregation, where they have been housed for [redacted]. But even in administrative segregation, [redacted] is subjected to sexual abuse from TDCJ staff members. For example, on [redacted], [redacted] and [redacted] made derogatory comments about [redacted]'s penis and testicle size, "saying [that their] jock strap looked like a G-string." [redacted] 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. Complainant 5 ("C5") is a white gay man in the custody of TDCJ. Since entering TDCJ in [redacted], C5 has been a survivor of repeated sexual abuse. He has been coerced into sexual relationships with other inmates for protection. C5 reports that, on one occasion, he was "sold" for 65 dollars and forced to submit to a sexual relationship with an inmate. C5 has been registered with the Safe Prisons Program since [redacted].

C5 has also witnessed acts of sexual abuse and physical violence perpetuated against his fellow inmates. Currently, 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, 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. Complainant 6 ("C6") is 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], 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, C6 was moved from the [redacted] Unit to the [redacted] Unit and, finally, to the [redacted] Unit. While in the [redacted] Unit, C6 was continually sexually extorted, abused, and forced in enter into sexual relationships for protection.

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

Once she arrived at the [redacted] Unit, 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 C6 back to the general population of the [redacted] Unit.
Again, C6 was targeted and sexually abused in the Unit. She began receiving threats to her safety, and she sent letters to and Safe Prisons on and , 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.

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

The next morning, C6 reported the assault and was transferred to in 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 the UCC denied C6’s request for safekeeping, and 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 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 Unit, they would falsify C6’s records and mark her as a sexual predator on heterosexual inmates. Further, a Safe Prisons Officer, threatened C6 with disciplinary action for filing reports of sexual assault and told her that Unit officials planned to transfer her since “they don’t allow transsexuals to stay on this unit.”

In , C6 was transferred to the Unit and housed in a unit with a gang member. Today, C6 fears for her safety. Her contacted the Safe Prisons/PREA Office in Huntsville to express her concerns for C6’s safety. was instructed to contact the Unit and lodge her complaints with the unit’s Safe Prisons/PREA Office. She did so, but no one from the Unit spoke with her. C6 then sent a letter, 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 . C7 reports surviving repeated sexual harassment, extortion, and assault.
Prior to entering TDCJ, C7 was placed in protective custody status while in 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 unit transfers, C7 was housed in the 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 months between and . 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 , C7 went before the UCC, only to be told that LGBT people cannot be sexually assaulted.

In , 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, filed false disciplinary cases against C7 because C7 highlighted 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 years, even though C7 had no major disciplinary cases.

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

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

Between and , C8 was sexually extorted by a gang member. In order to receive protection, which TDCJ did not provide, C8 submitted to a sexual relationship with . But, when C8 refused to submit to 's demands to perform sexual acts for other members of the gang, physically assaulted C8, striking C8's face.
When [C8] began to receive death threats from other members of the [screened] gang, he tried to report the sexual abuse again, on [screened]. This time he was successful, but when [C8] was seen by the UCC, [screened] stated, “Go back where you came from” and returned [C8] to the general population.

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

Report 9. Complainant 9 ("C9") is a bisexual transgender woman currently incarcerated in TDCJ at the [screened] 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. Complainant 10 ("C10") is a Black gay man who is currently incarcerated at the [screened] 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 [screened], [C10]’s cellmate, a member of the [screened] named [screened], physically assaulted [C10] after [C10] refused to leave the cell so that [screened] 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 ___ and ___ while in the ______ 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 ______ and ______ physically assaulted C11 until C11 agreed to recant. ______ and ______ proceeded to place C11 in pre-hearing detention for ___ 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 ___ and transferred C11 to the _____ Unit. For the next ___ years, C11 reported no sexual victimization or abuse; but, in ___ safekeeping inmates were moved to a less secure area of the _____ Unit. Safekeeping officers also became lax in following security measures, allowing general population inmates frequent contact with safekeeping inmates. In ___, C11 was sexually assaulted in the chow hall at the _____ Unit. C11 reported the sexual assault via a Step 1 grievance, but the grievance was never returned to C11.

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

After the sexual assault, Officers ______, ______, and ______ 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, ______. Only after a safekeeping officer demanded a superior officer's help did ______ visit C11's cell to discuss the incident. But, ______ refused C11's requests to receive medical attention and to file an official report.
Instead, threatened by saying that either or "should kick [C11]'s ass." filed a Step 1 and Step 2 grievance regarding the officers' misconduct and the sexual assault on; TDCJ officials responded that "no TDCJ policy [was] violated" and denied all claims of staff misconduct.

Today, 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. Complainant 12 ("C12") is a white gay man who reports that he was raped twice while housed in the Unit in.

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

Within the same month, was sexually assaulted again. His assailant, known as a friend of , his first assailant, and believes the second rape was "punishment" for attempting to report the first rape. thinks that both and were members of the gang. threatened 's life if he attempted to report the sexual assault. This threat, coupled with 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.

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

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

After the sexual assault, alerted the cell block officer. and were removed from the cell, and was taken to medical. There, he was placed naked in a cell for four hours. was then transferred to the in Texas, where a rape kit was performed. suffered anal abrasions. After treatment at , was returned to the Unit and placed in lockup.
Later, on [redacted], Safe Prisons/PREA Officer [redacted] 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 [redacted]. [redacted] and [redacted] called C13 a liar and said they did not want "heat," or negative attention, focused on the unit. [redacted] and [redacted] stated that C13 could not have been raped because he is gay. UCC decided to transfer C13 to another unit.

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

Nearly [redacted] 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 [redacted], 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 [redacted] year after being placed in administrative segregation, C13 asked an officer, [redacted], when he will be released from administrative segregation. C13 reports that [redacted] responded, "I know you, C13. I was a [redacted] 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 [redacted] and [redacted]. 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 [redacted]. Like many other LGBT people in TDCJ's custody, C14 reports that she has suffered repeated sexual and physical abuse.
In __, [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 __ gang, learned of [C14]'s gender identity and preferred name and began to sexually harass her. When [C14] refused his sexual advances, he physically assaulted her.

As a result of the assault, [C14] was moved to a different cell, but she was rehoused with another member of the __ gang. This new cellmate soon began to sexually harass and extort [C14], demanding sexual favors as "payment" for protection. [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, [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 [C14] to perform oral sex on him again.

Afterwards, her cellmate demanded anal sex with [C14]. She got the attention of two guards, who called [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 [C14], calling her a "catch out" and a "punk" as he transported her to the infirmary.

[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 [C14] to her feet and asked if [C14] had been hurt. [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, [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, [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 __ Unit in __.

Soon after [C14]'s arrival to the __ Unit, several inmates from the __ 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, ____, began sexually extorting her, demanding that she "ride," or perform sexual favors, for the gang. She refused.
In retaliation, members of [redacted] physically assaulted her on several occasions. Scared of retribution for being marked a “snitch,” [redacted] did not alert TDCJ staff about the abuse she suffered, hoping that if she fought long enough and did not “snitch,” [redacted] would leave her alone.

[redacted] was wrong. She was eventually rehoused with an associate of [redacted] 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 [redacted]. 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, [redacted] 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. [redacted] was scared for her life.

The following day, her assailant told [redacted] that she now belonged to [redacted] gang. When she objected, he physically assaulted her. She fought him, but he stabbed [redacted] 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 [redacted] 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.

[redacted] thought she was safe, but, in or around [redacted] or [redacted], five [redacted] 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, [redacted] did not report the assault, even after TDCJ initiated its own investigation. [redacted] told the investigating officers that her injuries were the result of “horseplay.” After that, [redacted] had some reprieve until [redacted] a gang member from [redacted]’s prior unit, arrived to the [redacted] Unit. Once in the Unit, he began telling others that [redacted] was his and his gang’s “punk.” [redacted] objected, and the gang member attacked her in the day room.

[redacted] 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.²

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.³

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).⁴

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.”⁵

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

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⁴ Id.
sexually and physically assaulted while in TDCJ’s custody— and just one of the many people who have contacted us for help.  

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 LGBTI 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

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7 Passion Star’s legal name is Joshua Zollicoffer.