

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOSHUA D. ZOLLICOFFER a/k/a
PASSION STAR,
Plaintiff,

versus

BRAD LIVINGSTON, personally and in his
official capacity as Executive Director of the
Texas Department of Criminal Justice
("TDCJ"); *et al.*,

Defendants.

Case No. 4:14-cv-03037

STATE OF NEW YORK)
) §§
COUNTY OF NEW YORK)

ATTORNEY AFFIDAVIT

I, Jael Humphrey-Skomer, hereby declare the following under penalty of perjury.

1. I am an attorney with Lambda Legal Defense and Education Fund, Inc., ("Lambda Legal") and counsel for Joshua Zollicoffer, a/k/a/ Passion Star ("Ms. Star"), in the above-captioned matter. I have personal knowledge of each of the facts sets forth herein, and could and would competently testify thereto, if called upon to do so.

2. On Thursday evening, February 26, 2015, Melinda McKew, a legal assistant in Lambda Legal's Dallas office, informed me that she received a collect call from Ms. Star, informing her that she had received several new threats and was in fear for her life. In a letter from Ms. Star dated February 26, 2015, but received by me only on March 2, 2015, I learned that Ms. Star had been trying urgently to communicate with us since February 23, 2015.

3. On February 27, 2015, I received a call from Ms. Star at approximately 11:15 p.m. CT. She confirmed the several new threats and that she was in fear for her life. I requested she call me back at 4:00 p.m. CT to discuss the forthcoming motion for emergency relief.

4. On Friday, February 27, 2015, at approximately 11:50 p.m. CT, Lambda Legal attorney, Paul Castillo, also representing Ms. Star, copied me on an email that he sent to Kim Coogan and Christin Vasquez, counsel for Defendants, informing them that Ms. Star faced an imminent risk of irreparable harm and requesting that defendants take immediate action to protect Ms. Star. In the email, Mr. Castillo wrote, "Given the imminent and substantial risk of serious harm to our client, we expect that you will immediately communicate our concerns with your clients." Attached as **Exhibit 1** is a true and correct copy of Mr. Castillo's email dated February 27, 2015.
5. On February 27, 2015, counsel for Defendants agreed to call the Warden at Clements and request that Ms. Star be moved temporarily to administrative segregation or pre-hearing detention, until Tuesday, March 3, 2015, to provide counsel adequate time to communicate with their clients and to meet and confer.
6. Ms. Star did not call me at 4:00 p.m. CT as we had planned. I believe that she did not call me because she has been moved to administrative segregation and her access to the phone may be restricted. I have been unable to speak with her since the call discussed in Paragraph 3 above.
7. On the afternoon of Friday, February 27, 2015, we finalized details for Ms. McKew, my legal assistant to travel to Clements to see Ms. Star on Monday, March 2, 2015 at 8 a.m. CT. This included booking flights, a hotel, and a car rental. Ms. McKew was booked on American Airlines flight 3428 that was to leave on Sunday, March 1, 2015 from Dallas at 5:15 p.m. CT and land in Amarillo at 6:27 p.m. CT, but, on this day, as Ms. McKew waited at the airport, her flight was canceled due to inclement weather.

8. The earliest flight that we could find to re-book Ms. McKew, Southwest flight 4362, did not arrive in Amarillo until Tuesday, March 3, 2015, at 10 a.m. CT. We re-booked Ms. McKew on this flight.

9. On Monday, March 2, 2015, at approximately 8 a.m. CT, Amy Shapiro, a legal assistant at Lambda Legal, contacted Ms. Davis and Mr. Glenn at the Clements Unit law library by telephone to reschedule Ms. McKew's meeting with Passion. Ms. Shapiro also attempted to set up a phone call between myself and Ms. Star for Monday, March 2, 2015, in light of the cancellation of Ms. McKew's scheduled visit. Ms. Shapiro told Ms. Davis that this was an emergency request because we were preparing to file a motion with the Court. The request was denied verbally, and Ms. Davis asked Ms. Shapiro to fax a formal request, complying with TDCJ's regulation that 24 hour notice is required to set up an attorney phone call.

10. Ms. Shapiro faxed the request to the Clements Unit law library at approximately 9:00 a.m. CT asking to set up a phone call between me and Ms. Star for the morning of Tuesday, March 3, 2015. Ms. Davis called Ms. Shapiro shortly thereafter and informed her that my request to speak by phone to Ms. Star was being denied because we did not have a specific court date or an imminent reason to speak with Ms. Star. Ms. Davis cited the March 3, 2015 visit scheduled with a legal assistant as another basis for denying the phone call.

11. I have found that it is difficult to communicate efficiently with Ms. Star and that the communication is frequently delayed. As a consequence, I fear that I will not receive timely notice of further serious threats to Ms. Star or acts of harm done to her.

12. Attached as **Exhibit 2** is a true and correct copy of Bureau of Justice Statistics, *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12: National Inmate Survey*, <http://www.bjs.gov/content/pub/pdf/svpjri1112.pdf>.

13. Attached as **Exhibit 3** is a true and correct copy of Texas Department of Criminal Justice, Correctional Institutes Division, Safe Prisons/PREA Plan, Aug. 2014,
[http://www.tdcj.state.tx.us/documents/cid/Safe Prisons PREA Plan.pdf](http://www.tdcj.state.tx.us/documents/cid/Safe_Prisons_PREA_Plan.pdf)
14. Attached as **Exhibit 4** is a true and correct copy of American Jail Association, *PREA and LGBTI Rights*, <http://www.americanjail.org/prea-and-lgbti-rights>.
15. Attached as **Exhibit 5** is a true and correct copy of National Institute of Corrections, *Policy Review and Development Guide: Lesbian, Gay, Bisexual, Transgender and Intersex Persons in Custodial Settings*,
<https://s3.amazonaws.com/static.nicic.gov/Library/027507.pdf>.
16. Attached as **Exhibit 6** is a true and correct copy of National Prison Rape Elimination Commission, *National Prison Rape Elimination Commission Report, Executive Summary* (June 2009), 1-24, <https://www.ncjrs.gov/pdffiles1/226680.pdf>.
17. Attached as **Exhibit 7** is a true and correct copy of Texas Department of Criminal Justice, *Safe Prisons Program, Fiscal Year 2011*, Aug. 2012,
https://www.tdcj.state.tx.us/documents/PREA_SPP_Report_2011.pdf.
18. Attached as **Exhibit 8** is a true and correct copy of Texas Department of Criminal Justice, *TDCJ Offender Orientation Handbook*, 5-6,
[http://www.tdcj.state.tx.us/documents/Offender Orientation Handbook English.pdf](http://www.tdcj.state.tx.us/documents/Offender_Orientation_Handbook_English.pdf).
19. Attached as **Exhibit 9** are three copies of grievances that Ms. Star mailed to me. Ms. Star informed me that she submitted the original copies of these grievances to TDCJ.
20. Attached as **Exhibit 10** is a copy of a letter dated February 17, 2015 that Ms. Star addressed to Defendant Joni White, head of TDCJ's State Classification Committee. Ms. Star informed me that she mailed the original copy of this letter directly to Defendant White.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 3rd day of March, 2015, in New York, New York.



Jael Humphrey-Skomer, Esq.

EXHIBIT 1

Jael Humphrey

From: Paul Castillo
Sent: Friday, February 27, 2015 12:51 PM
To: Coogan, Kim; Vasquez, Christin
Cc: Jael Humphrey; Goodrich, Christina N.
Subject: Notice of Imminent Risk of Harm to Passion Star aka Joshua Zollicoffer

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Kim and Christin,

We just learned that our client (Passion Star a/k/a Joshua Zollicoffer) has received death threats and threats of sexual violence since her transfer to the general population of the Clements Unit. We are understandably very concerned about our client's safety in the general population of the Clements Unit.

We write to request your immediate assistance with helping us protect our client from these recent, credible threats on her life and safety. We sincerely hope that you can assist us with finding an immediate solution to this grave situation by facilitating her move to safekeeping or take some other action to protect her because she is at imminent risk of serious, irreparable harm.

As you are aware, Passion has alleged and her history in TDCJ shows that she has received repeated threats to her safety as a result of her LGBT identity and has been raped and assaulted numerous times in the past while in the custody of TDCJ. On October 23, 2014, when the present lawsuit was filed, Passion was housed in the Robertson Unit where she received death threats and threats of sexual violence, from members of the Crips gang and other people incarcerated in the Robertson Unit. Shortly after the lawsuit was filed, Passion was transferred to the Clements Unit, where she was placed in the general population.

Unfortunately, the transfer to Clements has not alleviated the threats that Passion is receiving. She has received demands that she provide sexual acts to inmates in Clements and threats to physically injure her and to kill her if she does not.

We just learned that on or around February 20, 2014, Passion filed a request for an offender protection investigation. On or around February 22, 2014, the UCC (comprised of Major Hardegree, Captain Thomas, and Mrs. Grant) refused to take action to protect her and returned her to the general population in Clements. Alarming, Passion has been moved into a cell with a member of the Crips gang who has threatened her safety and is housed in the same building with inmates who have threatened to rape and to kill her, including an inmate who she specifically identified as someone from whom she was seeking protection.

We are extremely concerned that Passion will endure another assault while in the custody of TDCJ and could possibly lose her life. This can be prevented if action is taken now to move her to safekeeping or someplace where she can be offered additional protection while this suit is being litigated. Given the imminent and substantial risk of serious harm to our client, we expect that you will immediately communicate our concerns with your clients.

We appreciated your offer during our call on February 19, 2015 to take a closer look at Passion's disciplinary history to see whether she may be a candidate for safekeeping. We believe that when you examine the records, you will see that

she should not be precluded from safekeeping at this time. She is currently classified as a G2 and has no recent disciplinary history of violence.

We appreciate your urgent attention to this matter because we are deeply concerned with our client's safety and would prefer to avoid filing a motion with the Court seeking a temporary restraining order and a preliminary injunction if we can resolve this matter amicably.

Time is of the essence and we are concerned that Passion may be harmed over the weekend. Until we can resolve this matter, we request that Passion be placed in temporary administrative segregation while you assess the situation.

Please let us know whether TDCJ intends to take action to protect our client as soon as possible and, in any event, no later than noon on Monday, March 2, 2015.

Sincerely,

Paul D. Castillo

Staff Attorney

Lambda Legal

South Central Regional Office

3500 Oak Lawn Avenue, Suite 500

Dallas, TX 75219-6722

Phone: 214-219-8585

Direct: 214-302-2216

Fax: 214-219-4455

pcastillo@lambdalegal.org

www.lambdalegal.org

Lambda Legal: Making the case for equality

CONFIDENTIALITY NOTICE: This email transmission from Lambda Legal Defense and Education Fund, Inc. and any documents, files or previous email messages attached to it may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify us by reply email or by telephone at (214) 219-8585, ext. 242, and destroy the original transmission and its attachments without reading or saving it in any manner. Thank you.

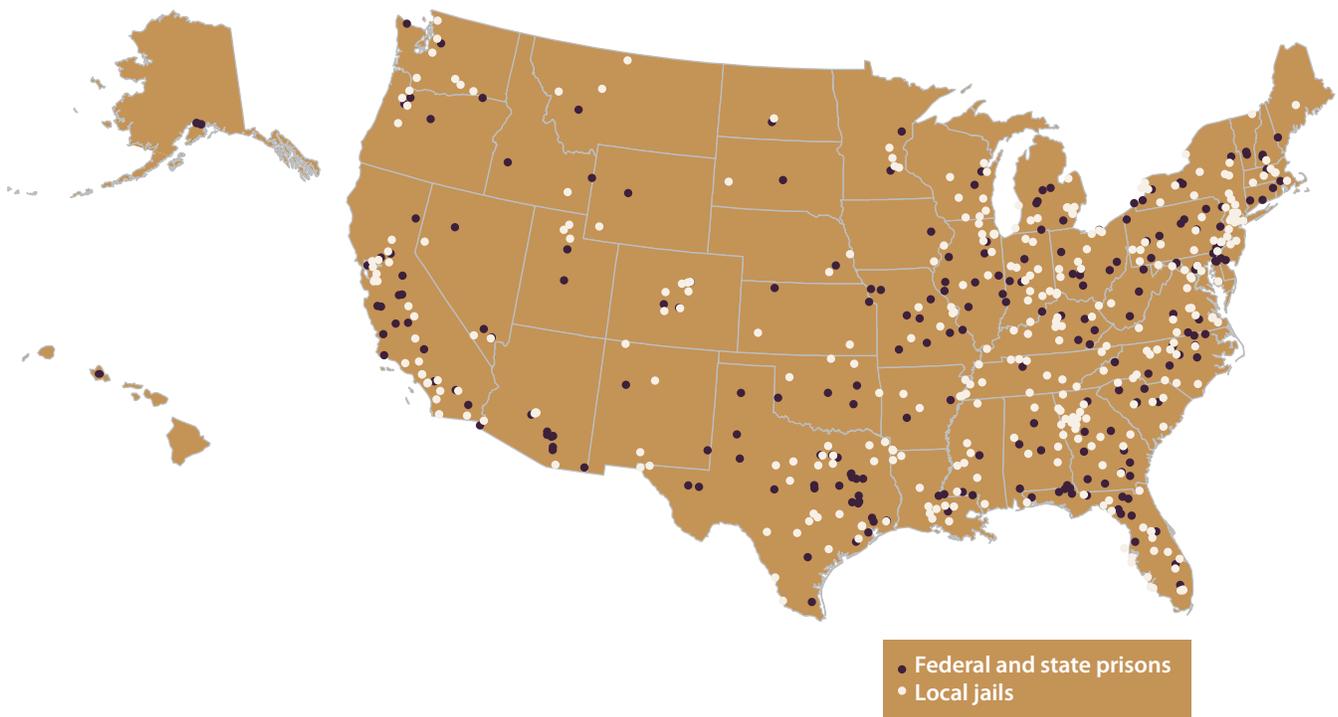
EXHIBIT 2

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics



Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12

National Inmate Survey, 2011–12



Allen J. Beck, Ph.D.
BJS Statistician

Marcus Berzofsky, Dr.P.H., Rachel Caspar,
and Christopher Krebs, Ph.D., *RTI International*

May 2013, NCJ 241399

BJS

Highlights (continued)

- Inmates with serious psychological distress reported high rates of inmate-on-inmate and staff sexual victimization in 2011-12:
 - Among state and federal prison inmates, an estimated 6.3% of those identified with serious psychological distress reported that they were sexually victimized by another inmate. In comparison, among prisoners with no indication of mental illness, 0.7% reported being victimized by another inmate.
 - Similar differences were reported by jail inmates. An estimated 3.6% of those identified with serious psychological distress reported inmate-on-inmate sexual victimization, compared to 0.7% of inmates with no indication of mental illness.
 - Rates of serious psychological distress in prisons (14.7%) and jails (26.3%) were substantially higher than the rate (3.0%) in the U.S. noninstitutional population age 18 or older.
 - For each of the measured demographic subgroups, inmates with serious psychological distress reported higher rates of inmate-on-inmate sexual victimization than inmates without mental health problems.
- Inmates who reported their sexual orientation as gay, lesbian, bisexual, or other were among those with the highest rates of sexual victimization in 2011-12:
 - Among non-heterosexual inmates, 12.2% of prisoners and 8.5% of jail inmates reported being sexually victimized by another inmate; 5.4% of prisoners and 4.3% of jail inmates reported being victimized by staff.
 - In each demographic subgroup (sex, race or Hispanic origin, age, and education), non-heterosexual prison and jail inmates reported higher rates of inmate-on-inmate sexual victimization than heterosexual inmates.
 - Among inmates with serious psychological distress, non-heterosexual inmates reported the highest rates of inmate-on-inmate sexual victimization (21.0% of prison inmates and 14.7% of jail inmates).

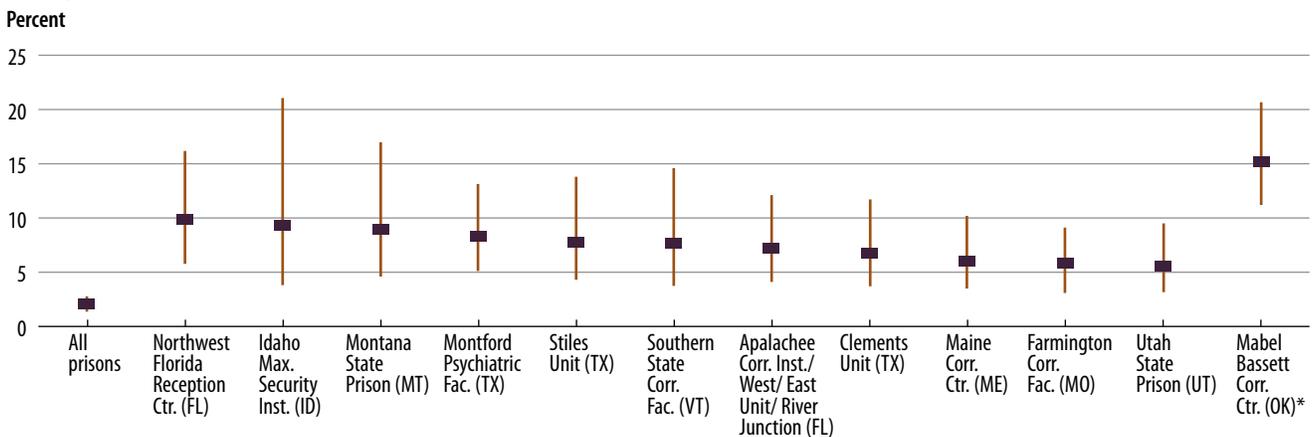
This method provides asymmetrical confidence intervals for facilities in which the lower bound is constrained to be no less than 0%. It also provides confidence intervals for facilities in which the survey estimates are 0% (but other similarly conducted samples could yield non-zero estimates).

Although the NIS-3 provides facility-level estimates and measures of precision, it cannot provide an exact ranking for all facilities as required under PREA. Rates of inmate-on-inmate sexual victimization and staff sexual misconduct differ across facilities, but the observed differences are not always statistically significant. To address PREA requirements, facilities have been categorized as having high rates or low rates based on criteria applied to the lower and upper bounds of the 95%-confidence interval for each facility (figure 1 and figure 2).

As with the NIS-2, the criterion that the lower bound of the confidence interval be at least 55% higher than the average rate for comparable facilities was used in the NIS-3 to identify high-rate male prisons, female prisons, and jails. The criterion that the upper bound of the confidence interval be lower than 65% of the average rate for comparable facilities was used to identify low-rate facilities.

To better identify variations among correctional facilities in rates of sexual victimization, prisons and jails are compared separately by type of sexual victimization. Though informative, an analysis of a single, overall prevalence rate of sexual victimization for each sampled facility would confound differing risk factors, circumstances, and underlying causes of victimization. For the same reasons, prisons are compared separately by the sex of inmates housed.

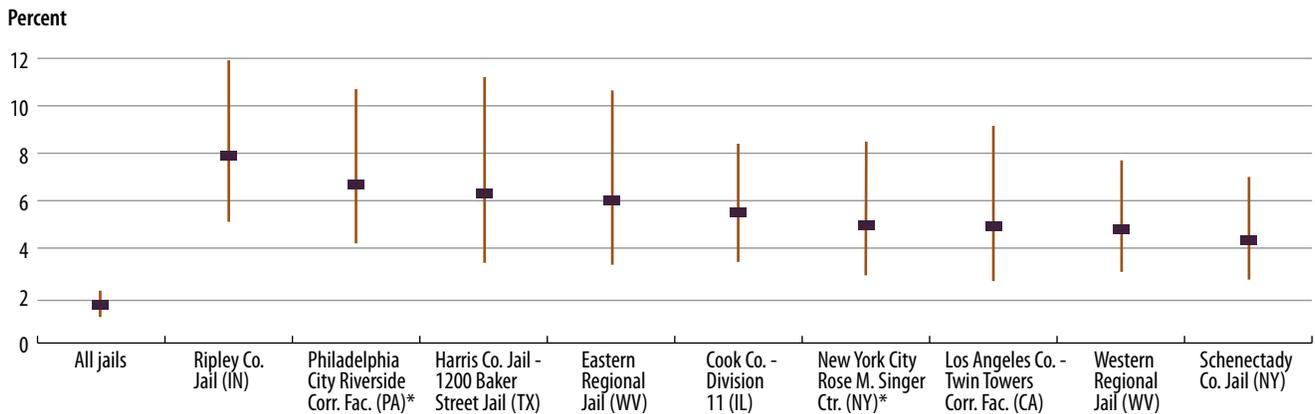
FIGURE 1
Confidence intervals at the 95% level for prisons with high rates of inmate-on-inmate sexual victimization, National Inmate Survey, 2011–12



*Facility housed only female inmates.

Source: Bureau of Justice Statistics, National Inmate Survey, 2011–12.

FIGURE 2
Confidence intervals at the 95% level for jails with high rates of inmate-on-inmate sexual victimization, National Inmate Survey, 2011–12



*Facility housed only female inmates.

Source: Bureau of Justice Statistics, National Inmate Survey, 2011–12.

APPENDIX TABLE 1 (continued)**Characteristics of state and federal prisons and prevalence of sexual victimization, by facility, National Inmate Survey, 2011–12**

Facility name	Number of inmates in custody ^c	Respondents to sexual victimization survey ^d	Response rate ^e	Inmates reporting sexual victimization ^a		
				Percent ^f	95%-confidence interval ^b	
					Lower bound	Upper bound
South Carolina						
Camille Griffin Graham Corr. Inst. ^g	495	129	67.5%	8.7%	5.2%	14.1%
Kershaw Corr. Inst.	1,473	232	78.9	5.6	3.2	9.7
Kirkland Reception and Evaluation Ctr.	1,672	233	85.3	2.8	1.4	5.8
Turbeville Corr. Inst.	1,163	214	74.6	3.2	1.6	6.2
Tyger River Corr. Inst.	1,287	206	63.7	1.9	0.7	4.8
South Dakota						
South Dakota Women's Prison ^g	220	118	74.7%	13.2%	9.5%	18.1%
Tennessee						
Riverbend Max. Security Inst.	698	87	16.5%	1.2%	0.3%	4.1%
Texas						
Byrd Unit	1,095	183	60.9%	1.8%	0.8%	4.4%
Carole Young Medical Fac. Complex ^g	402	162	79.5	1.7	0.8	3.6
Clemens Unit	1,168	173	55.8	6.4	3.1	12.7
Clements Unit	3,631	141	43.6	11.9	7.6	18.0
Coffield Unit	4,113	210	66.1	7.9	4.9	12.4
Dawson State Jail ^{h,i}	2,202	188	63.7	2.4	1.1	5.1
Eastham Unit	2,439	207	68.1	4.7	2.7	8.2
Gist State Jail	1,997	213	72.2	1.5	0.5	4.1
Gurney Transfer Fac.	1,834	179	62.3	1.5	0.5	4.2
Henley State Jail ^g	423	138	69.0	2.4	1.0	5.8
Hodge Unit	928	154	21.9	2.1	0.8	5.3
Holiday Transfer Fac.	2,077	161	52.9	2.8	1.1	7.1
Huntsville Unit	1,530	171	67.1	0.9	0.2	2.9
McConnell Unit	2,905	172	54.2	5.3	2.8	10.0
Michael Unit	3,257	179	57.1	6.0	3.4	10.3
Montford Psychiatric Fac.	819	166	70.2	10.2	6.7	15.2
Murray Unit ^g	1,315	168	63.7	15.3	10.7	21.4
Plane State Jail ^g	2,175	175	63.0	4.4	2.2	8.9
Powledge Unit	1,119	170	61.3	2.9	1.0	8.0
Stiles Unit	2,935	151	49.4	11.9	7.5	18.6
Willacy Co. State Jail ⁱ	1,069	151	55.6	1.1	0.3	3.8
Woodman State Jail ^g	796	140	56.8	1.3	0.4	4.3
Utah						
Central Utah Corr. Fac.	1,105	193	69.9%	5.5%	3.2%	9.2%
Utah State Prison ^h	3,746	233	73.1	6.4	3.8	10.5
Vermont						
Southeast State Corr. Fac.	92	58	71.1%	5.1%	2.3%	10.9%
Southern State Corr. Fac.	359	109	55.3	9.9	5.6	16.9
Virginia						
Brunswick Women's Reception and Pre-Release Ctr. ^g	131	95	85.8%	0.0%	0.0%	3.9%
Dillwyn Corr. Ctr.	1,061	163	60.3	4.5	2.2	9.0
Sussex II State Prison	1,276	204	74.1	5.4	3.0	9.5
Washington						
Clallam Bay Corr. Ctr.	894	146	53.2%	5.1%	2.6%	9.6%
Monroe Corr. Complex	2,229	183	60.2	2.9	1.2	7.0
Washington State Penitentiary	2,017	119	41.2	5.2	2.2	11.9
West Virginia						
Huttonsville Corr. Ctr.	1,147	128	46.6%	8.1%	4.4%	14.6%
Wisconsin						
Green Bay Corr. Inst.	1,076	208	72.2%	4.8%	2.8%	7.9%
Oshkosh Corr. Ctr.	2,020	223	74.3	4.7	2.7	8.1

APPENDIX TABLE 2 (continued)**Percent of prison inmates reporting sexual victimization, by type of incident and facility, National Inmate Survey, 2011–12**

Facility name	Inmate-on-inmate ^a			Staff sexual misconduct ^a		
	Percent victimized ^c	95%-confidence interval ^b		Percent victimized ^c	95%-confidence interval ^b	
		Lower bound	Upper bound		Lower bound	Upper bound
South Dakota						
South Dakota Women's Prison ^d	12.4%	8.8%	17.3%	2.6%	1.2%	5.4%
Tennessee						
Riverbend Max. Security Inst.	0.4%	0.1%	2.0%	1.2%	0.3%	4.1%
Texas						
Byrd Unit	0.9%	0.3%	2.8%	1.0%	0.3%	3.3%
Carole Young Medical Fac. Complex ^d	1.2	0.5	3.0	1.3	0.5	3.1
Clemens Unit	2.9	0.9	8.8	3.5	1.5	8.2
Clements Unit	6.8	3.8	11.7	9.5	5.7	15.3
Coffield Unit	1.1	0.3	3.8	6.8	4.1	11.1
Dawson State Jail ^{e,f}	1.4	0.5	3.9	1.6	0.6	4.1
Eastham Unit	2.3	1.0	5.1	2.9	1.4	5.9
Gist State Jail	0.6	0.1	2.9	0.9	0.2	3.1
Gurney Transfer Fac.	1.5	0.5	4.2	0.6	0.1	2.9
Henley State Jail ^d	1.7	0.6	4.9	0.8	0.2	3.2
Hodge Unit	1.9	0.7	5.2	0.7	0.2	2.6
Holliday Transfer Fac.	1.0	0.3	3.7	1.8	0.5	6.1
Huntsville Unit	0.5	0.1	2.6	0.3	0.1	1.7
McConnell Unit	3.4	1.4	8.0	2.3	1.1	4.9
Michael Unit	4.4	2.3	8.4	2.1	0.8	5.2
Montford Psychiatric Fac.	8.4	5.2	13.1	5.0	2.7	9.2
Murray Unit ^d	11.3	7.3	17.0	4.4	2.3	8.2
Plane State Jail ^d	2.1	0.9	5.2	2.3	0.8	6.5
Powledge Unit	1.8	0.5	6.5	1.1	0.2	5.2
Stiles Unit	7.8	4.3	13.8	6.2	3.2	11.4
Willacy Co. State Jail ^f	1.1	0.3	3.8	0.6	0.1	2.8
Woodman State Jail ^d	1.3	0.4	4.3	0.0	0.0	2.7
Utah						
Central Utah Corr. Fac.	3.7%	2.0%	6.9%	2.7%	1.2%	5.7%
Utah State Prison ^e	5.6	3.2	9.5	1.2	0.4	3.6
Vermont						
Southeast State Corr. Fac.	2.2%	0.7%	6.5%	5.1%	2.3%	10.9%
Southern State Corr. Fac.	7.7	3.9	14.6	4.8	2.2	10.3
Virginia						
Brunswick Women's Reception and Pre-Release Ctr. ^d	0.0%	0.0%	3.9%	0.0%	0.0%	3.9%
Dillwyn Corr. Ctr.	0.8	0.2	3.9	3.7	1.7	8.0
Sussex II State Prison	1.3	0.4	4.6	4.1	2.2	7.7
Washington						
Clallam Bay Corr. Ctr.	1.6%	0.5%	5.1%	3.5%	1.6%	7.5%
Monroe Corr. Complex	0.3	0.1	1.6	2.6	1.0	6.8
Washington State Penitentiary	3.3	1.1	9.4	1.9	0.5	6.9
West Virginia						
Huttonsville Corr. Ctr.	2.8%	1.0%	7.5%	6.5%	3.2%	12.8%
Wisconsin						
Green Bay Corr. Inst.	2.4%	1.2%	4.7%	2.4%	1.1%	5.1%
Oshkosh Corr. Ctr.	3.9	2.1	7.2	1.1	0.4	3.1
Wyoming						
Wyoming Honor Farm	1.0%	0.3%	3.0%	2.9%	1.5%	5.5%

APPENDIX TABLE 3 (continued)**Percent of prison inmates reporting sexual victimization by level of coercion, by facility, National Inmate Survey, 2011–12**

Facility name	Inmate-on-inmate ^a		Staff sexual misconduct ^a		Without force or pressure ^d
	Physically forced ^b	Pressured ^c	Physically forced ^b	Pressured ^c	
Texas					
Byrd Unit	0.9%	0.4%	0.4%	0.4%	1.0%
Carole Young Medical Fac. Complex ^e	0.4	1.2	0.8	1.3	0.5
Clemens Unit	2.0	2.6	0.3	1.5	2.0
Clements Unit	4.9	5.7	8.1	8.7	2.5
Coffield Unit	0.7	0.4	2.0	3.5	3.8
Dawson State Jail ^g	1.4	1.4	1.6	1.0	0.6
Eastham Unit	1.4	2.3	1.9	1.9	1.8
Gist State Jail	0.6	0.6	0.0	0.6	0.3
Gurney Transfer Fac.	1.5	0.5	0.0	0.6	0.0
Henley State Jail ^e	1.7	0.0	0.0	0.8	0.0
Hodge Unit	1.9	1.9	0.5	0.5	0.2
Holliday Transfer Fac.	1.0	0.7	0.7	1.8	0.7
Huntsville Unit	0.0	0.5	0.3	0.3	0.0
McConnell Unit	3.0	2.9	1.0	1.6	1.1
Michael Unit	3.8	2.3	1.1	1.1	1.0
Montford Psychiatric Fac.	5.2	7.3	2.9	4.5	2.0
Murray Unit ^e	6.9	7.4	1.0	3.6	1.1
Plane State Jail ^e	1.7	1.1	1.0	2.3	0.0
Powledge Unit	1.3	0.5	1.1	1.1	1.1
Stiles Unit	4.5	6.3	0.9	2.5	4.9
Willacy Co. State Jail ^g	0.0	1.1	0.0	0.0	0.6
Woodman State Jail ^e	0.8	1.3	0.0	0.0	0.0
Utah					
Central Utah Corr. Fac.	3.7%	2.8%	2.2%	1.5%	1.8%
Utah State Prison ^f	2.4	4.7	0.0	1.2	0.0
Vermont					
Southeast State Corr. Fac.	2.2%	2.2%	2.2%	2.2%	5.1%
Southern State Corr. Fac.	3.3	7.7	2.2	4.1	1.3
Virginia					
Brunswick Women's Reception and Pre-Release Ctr. ^e	0.0%	0.0%	0.0%	0.0%	0.0%
Dillwyn Corr. Ctr.	0.0	0.8	0.6	0.0	3.2
Sussex II State Prison	1.3	1.3	0.8	2.1	2.8
Washington					
Clallam Bay Corr. Ctr.	0.8%	0.7%	1.4%	1.4%	2.6%
Monroe Corr. Complex	0.3	0.3	0.4	0.4	2.2
Washington State Penitentiary	3.3	3.3	0.0	1.3	0.7
West Virginia					
Huttonsville Corr. Ctr.	2.0%	1.6%	0.9%	2.8%	4.7%
Wisconsin					
Green Bay Corr. Inst.	1.6%	0.8%	0.9%	1.5%	1.9%
Oshkosh Corr. Ctr.	1.6	3.1	0.4	0.7	0.4
Wyoming					
Wyoming Honor Farm	1.0%	1.0%	0.0%	2.0%	0.8%

APPENDIX TABLE 4 (continued)**Percent of prison inmates reporting nonconsensual sexual acts and abusive sexual contacts, by facility, National Inmate Survey, 2011–12**

Facility name	Nonconsensual sexual acts ^a			Abusive sexual contacts only ^b		
	Percent victimized ^d	95%-confidence interval ^c		Percent victimized ^d	95%-confidence interval ^c	
Lower bound		Upper bound	Lower bound		Upper bound	
South Carolina						
Camille Griffin Graham Corr. Inst. ^e	4.4%	2.1%	9.1%	4.3%	2.2%	8.4%
Kershaw Corr. Inst.	1.3	0.5	3.6	4.3	2.2	8.2
Kirkland Reception and Evaluation Ctr.	0.4	0.1	2.2	2.4	1.1	5.2
Turbeville Corr. Inst.	0.9	0.3	2.8	2.3	1.0	5.2
Tyger River Corr. Inst.	0.3	0.1	1.3	1.6	0.6	4.5
South Dakota						
South Dakota Women's Prison ^e	8.6%	5.6%	13.1%	4.6%	2.7%	7.7%
Tennessee						
Riverbend Max. Security Inst.	0.8%	0.2%	3.9%	0.4%	0.1%	2.0%
Texas						
Byrd Unit	1.0%	0.3%	3.3%	0.8%	0.3%	2.7%
Carole Young Medical Fac. Complex ^e	1.3	0.5	3.1	0.4	0.1	1.5
Clemens Unit	1.5	0.5	4.6	4.9	2.1	11.2
Clements Unit	2.4	1.0	6.1	9.4	5.7	15.2
Coffield Unit	2.7	1.2	6.0	5.2	3.0	9.1
Dawson State Jail ^g	1.2	0.4	3.2	1.3	0.4	3.7
Eastham Unit	0.7	0.2	2.5	4.0	2.1	7.4
Gist State Jail	0.6	0.1	2.9	0.9	0.2	3.1
Gurney Transfer Fac.	0.4	0.1	2.1	1.1	0.3	3.7
Henley State Jail ^e	1.7	0.6	4.9	0.8	0.2	3.2
Hodge Unit	0.5	0.1	2.6	1.6	0.5	4.7
Holliday Transfer Fac.	1.0	0.3	3.7	1.8	0.5	6.1
Huntsville Unit	0.0	0.0	2.2	0.9	0.2	2.9
McConnell Unit	2.2	0.9	4.9	3.2	1.3	7.7
Michael Unit	3.2	1.5	6.8	2.7	1.2	6.1
Montford Psychiatric Fac.	3.4	1.7	6.8	6.8	4.0	11.3
Murray Unit ^e	7.0	4.0	11.9	8.3	5.0	13.4
Plane State Jail ^e	3.5	1.5	7.8	1.0	0.3	3.3
Powledge Unit	1.8	0.5	6.5	1.1	0.2	5.2
Stiles Unit	5.8	2.8	11.8	6.1	3.4	11.0
Willacy Co. State Jail ^g	0.0	0.0	2.5	1.1	0.3	3.8
Woodman State Jail ^e	1.3	0.4	4.3	0.0	0.0	2.7
Utah						
Central Utah Corr. Fac.	1.8%	0.7%	4.3%	3.7%	1.9%	7.1%
Utah State Prison ^f	2.8	1.3	5.8	3.6	1.8	7.2
Vermont						
Southeast State Corr. Fac.	0.0%	0.0%	6.2%	5.1%	2.3%	10.9%
Southern State Corr. Fac.	3.2	1.1	9.4	6.7	3.5	12.4
Virginia						
Brunswick Women's Reception and Pre-Release Ctr. ^e	0.0%	0.0%	3.9%	0.0%	0.0%	3.9%
Dillwyn Corr. Ctr.	1.5	0.5	5.0	3.0	1.3	7.0
Sussex II State Prison	1.3	0.4	4.3	4.1	2.1	7.8
Washington						
Clallam Bay Corr. Ctr.	2.3%	0.9%	6.1%	2.8%	1.2%	6.5%
Monroe Corr. Complex	1.9	0.6	6.0	1.0	0.3	3.5
Washington State Penitentiary	1.7	0.5	6.2	3.5	1.2	9.9
West Virginia						
Huttonsville Corr. Ctr.	2.2%	0.8%	6.1%	5.9%	2.8%	12.1%
Wisconsin						
Green Bay Corr. Inst.	1.8%	0.8%	4.2%	2.9%	1.5%	5.6%
Oshkosh Corr. Ctr.	1.7	0.7	4.0	3.1	1.5	6.1

EXHIBIT 3

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
CORRECTIONAL INSTITUTIONS DIVISION



SAFE PRISONS/PREA PLAN

August 2014

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

SAFE PRISONS/PREA PLAN

FOREWORD

The Texas Department of Criminal Justice (TDCJ) has a zero tolerance for all forms of sexual abuse and sexual harassment of offenders. The TDCJ shall take a proactive approach concerning the detection, prevention, response, and punishment of sexual abuse, including consensual sexual contact while in TDCJ custody. The TDCJ shall be vigilant in establishing a safe environment for staff and offenders at all secure correctional facilities and take immediate action to address the protective needs of offenders who have been victimized. Every attempt shall be made to prevent the sexual abuse and sexual harassment of offenders in accordance with agency policy. ED-03.03, "Safe Prisons/PREA Program," directs the TDCJ to develop and implement a plan to govern the operation of the Safe Prisons/PREA Program. The TDCJ *Safe Prisons/PREA Plan* (plan) shall be applicable to all individuals, including visitors and volunteers, employed by, under contract with, or supervised by the TDCJ, including professional staff and any person who is involved, directly or indirectly, with the care and custody of offenders.

As the director of the Correctional Institutions Division (CID), and the appointed Safe Prisons/PREA coordinator, I hereby rescind the TDCJ *Safe Prisons Plan* (rev. 2) dated January 5, 2012, and establish the TDCJ *Safe Prisons/PREA Plan* to ensure every effort is made to maintain a safe and secure environment for staff and offenders and incorporate the national PREA standards into agency policies and procedures. I hereby implement the attached plan for use in the operation of the TDCJ Safe Prisons/PREA Program. This plan is in compliance with Tex. Gov't Code §§ 411.148, 492.013, 493.006(b), 494.002, 501.002, 501.011, 501.014, 501.173, 501.174; Tex. Pen. Code §§ 1.07, 22.011, 22.021, 31.01(2), 31.03, 37.10, 39.04; Tex. Code of Crim. Proc. arts. 42.19, 56.02-56.04, 56.07, 56.11, 56.045; Tex. Fam. Code §§ 261.401-.410; 2014-2015 *General Appropriations Act*, Rider 38, V-15, 83rd Leg.; 42 USC § 1983; and 28 CFR §§ 115.5-.93

William Stephens, Director
Correctional Institutions Division

Date

7. Interstate Corrections Compact (ICC) Transfer

This option is considered when an offender's need for protection cannot be met by housing the offender in TDCJ units. A request for an ICC transfer shall be in accordance with the TDCJ *Classification Plan*.

III. Offender Screening and Assessment

A. Intake

1. During the intake process, non-medical staff shall not search or physically examine a transgender or intersex offender for the sole purpose of determining the offender's genital status.
2. If the offender's genital status is unknown, it may be determined during conversation with the offender, by reviewing medical records, or, if necessary, as part of a broader medical examination conducted in private by a medical practitioner.
3. Offenders identified as transgender or intersex during intake shall be referred to medical in accordance with the TDCJ *Intake Procedures Manual*.

B. Obtaining Information from Offenders

1. All offenders shall be assessed during intake, and if transferred to another unit for permanent assignment, to determine the risk of being sexually abused by or sexually abusive toward other offenders.
2. Intake screening shall take place within 24 hours of arrival at the unit in accordance with the SPPOM.
3. Assignments shall be made through the collaborative efforts of intake staff, the USPPM, and medical and mental health services by using objective screening instruments.
 - a. The intake screening shall include, at a minimum, the following criteria to assess offenders for risk of sexual victimization:
 - (1) Any mental, physical, or developmental disability;
 - (2) The age of the offender;
 - (3) The physical build of the offender;
 - (4) Previous incarceration;

- (5) Whether the criminal history is exclusively nonviolent;
 - (6) Prior convictions for sex offenses against an adult or child;
 - (7) Perception of the offender as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
 - (8) Previous sexual victimization; and
 - (9) The offender's own perception of vulnerability.
- b. The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the TDCJ, in assessing offenders for risk of being sexually abusive.
 - c. After completion of the screening instrument, the USPPM shall forward a copy to the intake coordinator, for intake facilities, and the original shall be provided to the unit classification department for review.
4. Within a period of time not to exceed 30 days from the offender's arrival at an intake facility, the offender shall be reassessed for risk of victimization or abusiveness following receipt of any additional or relevant information received by the TDCJ since the initial intake screening.
 5. An offender's risk level shall be reassessed following a referral, request, incident of sexual abuse, or receipt of additional information that may affect the offender's risk of sexual victimization or abusiveness.
 6. If the screening pursuant to this section indicates an offender has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure the offender is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
 7. If the screening pursuant to this section indicates an offender has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure the offender is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

8. If information indicates an offender has previously perpetrated sexual abuse in an institutional setting, the USPPM shall ensure the SPPMO is notified in accordance with the SPPOM.

C. Use of Screening Information

1. The Unit Classification Committee (UCC), or a similarly designed committee for units without a UCC, shall use information from the risk screening document required by Section III.B of this plan to make housing, bed, work, education, and program assignments with the goal of separating offenders at high risk of being sexually victimized from offenders at high risk of being sexually abusive in accordance with the TDCJ *Classification Plan* and the TDCJ *Unit Classification Procedures Manual*.
2. The committee shall make individualized determinations regarding how to ensure the safety of each offender.
3. Offenders at high risk for sexual victimization shall not be placed in protective custody unless an assessment of all available alternatives has been made and it is determined there is no available alternative means of separation from likely abusers. If the assessment cannot be completed immediately, the unit may hold the offender in involuntary segregated housing while completing the assessment, for no longer than 24 hours.
4. If a protective custody housing assignment is made pursuant to Section III.C.3, the unit shall clearly document:
 - a. The basis of the concern for the offender's safety; and
 - b. The reason why no alternative means of separation can be arranged.
5. Offenders shall be assigned to protective custody only until an alternative means of separation from likely abusers is arranged, for no longer than 30 days.
6. Offenders placed in protective custody for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the unit restricts access to programs, privileges, education, or work opportunities, the unit shall document:
 - a. The opportunities that have been limited;
 - b. The duration of the limitations; and

- c. The reasons for the limitations.
7. Every 30 days, the unit shall conduct a review to determine if there is a continuing need for separation of the offender from the general population.
 8. Lesbian, gay, bisexual, transgender, or intersex offenders shall not be placed in dedicated facilities, units, or wings solely on the basis of this identification or status, unless the placement is in a dedicated unit wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting these offenders.
 9. When deciding to assign a transgender or intersex offender to a unit for male or female offenders, and when making other housing and programming assignments, consideration shall be made on a case-by-case basis with regard to the health and safety of the offender and potential management or security problems.
 - a. Placement and programming assignments for each transgender or intersex offender shall be reassessed semiannually to review any threats to safety experienced by the offender.
 - b. A transgender or intersex offender's views with respect to his or her own safety shall be given serious consideration.
 10. Offenders shall not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to Section III.B.3.

D. Screening Information Management

1. Staff shall use appropriate controls to disseminate responses to questions asked pursuant to this plan within the units, ensuring that sensitive information is not exploited to the detriment of any offender by staff or other offenders.
2. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, assisting with making treatment plans and informed management decisions, including those related to housing, bed, work, education, and program assignments, or as otherwise required by federal, state, or local law.
3. In accordance with CMHC policies, medical and mental health practitioners shall obtain informed consent from offenders before

VI. Training and Education

A. Offender Orientation and Education

1. During the intake process, offenders shall be provided with educational information explaining the TDCJ's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment in accordance with the TDCJ *Classification Plan* and TDCJ *Unit Classification Procedures Manual*.
2. Within 30 days of intake, the USPPM shall ensure offenders are provided with comprehensive education either in person or through video regarding their rights to be free from sexual abuse and sexual harassment, and any retaliation for reporting these incidents; and regarding TDCJ policies and procedures from responding to these incidents in accordance with the SPPOM.
3. Offenders shall receive information as described in Section VI.A.1, if transferred to a different facility, to the extent that the policies and procedures of the new facility differ from those of the previous facility, or if there is no documented record the offender received the information.
4. Offenders shall be provided education in formats accessible to all offenders, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills.
5. The USPPM shall maintain documentation of completion rosters in accordance with the TDCJ *Records Retention Schedule* and record the information in accordance with the TDCJ *Individualized Treatment Plan Procedures Manual*.
6. Educational posters and brochures regarding sexual abuse and sexual harassment prevention and reporting shall be displayed and made available to offenders in accordance with the SPPOM.

B. Employee Training

All Safe Prisons/PREA Program training and education shall be performed in accordance with the Correctional Training and Staff Development program schedule, the SPPOM, and this plan.

1. All employees who may have contact with offenders shall receive the following information in accordance with Safe Prisons/PREA requirements:

- a. The TDCJ's zero tolerance policy on sexual abuse and sexual harassment;
 - b. Methods for fulfilling responsibilities under the TDCJ sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures.
 - c. The right of offenders to be free from sexual abuse and sexual harassment;
 - d. The right of offenders and staff to be free from retaliation for reporting sexual abuse and sexual harassment;
 - e. The characteristics of sexual abuse and sexual harassment in confinement;
 - f. The common reactions of sexual abuse and sexual harassment victims;
 - g. How to detect and respond to signs of threatened and actual sexual abuse;
 - h. How to avoid inappropriate relationships with offenders;
 - i. How to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming offenders;
 - j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities; and
 - k. The common characteristics of victims and predators, sometimes referred to as red flags.
2. Correctional staff shall be trained in the methods of conducting cross-gender, transgender, and intersex offender pat-down searches in order to ensure the searches are conducted professionally and respectfully, in the least intrusive manner possible, but with attention to security needs.
 3. The training shall be tailored to the gender of the offenders at the unit of assignment. The employee shall receive additional training when transferring to a unit with offenders of a different gender.
 4. In addition to the CTSD curriculum and requirements of this plan, unit administration shall be responsible for maintaining employee awareness of unit-specific victim and predator population information.

EXHIBIT 4



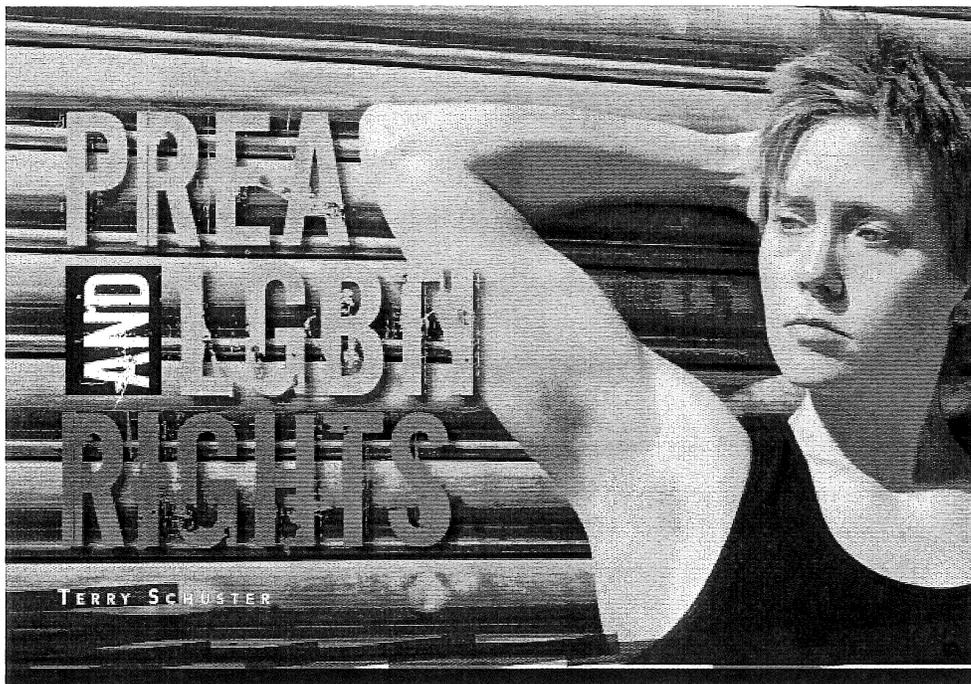
[Login](#) | [Register](#)

Search

- [ABOUT](#)
- [CONFERENCE](#)
- [EDUCATION](#)
- [MAGAZINE](#)
- [MEMBERSHIP](#)
- [STORE](#)
- [CONTACT](#)

PREA and LGBTI Rights

Posted in: [Articles](#), [Magazine](#) | Mar 07 at 10:07 am



Every State in the country is attempting to show that their prisons, jails, and juvenile facilities comply with the new Federal regulations on sexual abuse and harassment. Following the unanimous passage of the Prison Rape Elimination Act (PREA) and another decade of research, horrifying testimony, and several drafts of regulations, a set of rules that aims to prevent and address sexual violence now applies to nearly all secure lock-up facilities.

Because lesbian, gay, bisexual, transgender, and intersex (LGBTI) inmates are particularly at risk for sexual victimization in these settings, the rules require States to adopt fairly progressive policies to protect these inmates from abuse and harassment. Creating a safe environment for LGBTI inmates requires far more than taking steps to prevent rape in prisons. Correctional facilities will have to prohibit and directly address homophobic slurs and other verbal harassment; they will have to discipline and relocate the perpetrators of the harassment—rather than isolating the victims for their own protection—and they will have to consider transgender inmates' views regarding whether they feel safer and more comfortable living with males or females.

It is an interesting moment in history—when policies and staff training in jails and prisons go a greater distance to support LGBTI people than those in most schools and workplaces. Of course, there will be some variation in the LGBTI policies adopted by different systems, and some will certainly stand out as models of best practice.

Correctional systems that want to aim higher than the basic protections required for Federal funding by going further to prevent and address sexual abuse and harassment behind bars will also affect public safety by improving inmates'

[Like us on Facebook!](#)



American Jail Association

Like 1,511

Latest News

Juveniles Under Community-based Supervision Less Likely To Reoffend

\$75M Initiative To Reduce America's Use of Jails (Grant Info)

\$5M in Grants To Help Inmates Gain Job Skills and Employment Opportunities

Measles Information from the CDC

New Ebola Information for Law Enforcement Professionals

High case load?
 Screen offender risks quickly with the
LSI-R:SV™

Get Started

MHS™
 ASSESSMENTS

prospects for success once released. In this article, I discuss the basic protections for LGBTI inmates that every juvenile and adult correctional system will need to put in place and offer some extra provisions they should adopt to become models of best practice.

The Transgender Inmate

More than any other group, male-to-female transgender inmates (trans women) who are housed with men are at risk for sexual victimization and harassment in jails and prisons. A 2007 report found that trans women were 13 times more likely than other inmates to be sexually assaulted while in confinement and also far more likely to be sexually assaulted on multiple occasions. Trans women, many of whom have breasts and feminine appearances, are frequently targeted by male staff members for unnecessary and traumatic frisks and strip searches. They are exposed to unwanted sexual attention from both staff and other inmates in showers, and are often treated as if they invited the violence and sexual attention by choosing to make changes in their physical appearance.

Most jails and prisons have never used the word “transgender” in their policies, much less instituted formal protocols to protect transgender inmates. In fact, because there is little understanding of trans people and identity among the country’s general population, correctional staff and administrators have not been well equipped to respond to their unique safety needs.

The first step taken by the new PREA rules to eliminate sexual abuse and harassment of trans inmates is to define some basic terms:

- **Gender identity.** A person’s internal sense of feeling male or female.
- **Transgender.** A person whose gender identity is different from the person’s assigned sex at birth.
- **Gender nonconforming.** A person whose appearance or manner does not conform to traditional societal gender expectations.
- **Intersex.** A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

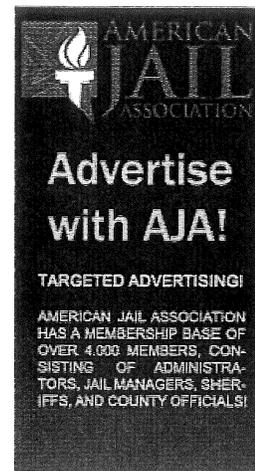
By defining these terms, the PREA rules educate and elicit compassion among practitioners working with trans inmates and prevent them from drafting policies based on misunderstanding or prejudice.

PREA also addresses the question of whether to house transgender inmates with males or females, prohibiting any hard-line rule about housing these inmates based on their assigned sex at birth. Jails, prisons, and juvenile facilities are now required to determine on a case-by-case basis whether a trans inmate will be safer housed with men or women. They also must give serious consideration to an inmate’s own views regarding his or her safety. Importantly, “transgender” is not defined by whether a person has undergone surgery or hormone treatment to change his or her anatomy and appearance. It is defined solely by a person’s internal sense of feeling male or female. Thus, a trans woman (male-to-female) inmate cannot be excluded from this protection because she has male genitalia or because the individual making housing decisions thinks she does not look “female enough.” Notably, trans men (female-to-male) inmates may have masculine appearances (facial hair, chest surgery, etc.), but may feel safer from sexual victimization when housed with women. Housing decisions must focus on minimizing the risk of sexual victimization on a case-by-case basis and ensure that transgender inmates feel safe.

The housing decision rule also applies to inmates who were born with intersex conditions, including:

- Individuals with atypical genitalia who are not clearly identifiable as male or female and whose genitals look male or female on the outside but who have different internal organs (e.g., having both a phallus on the outside and a uterus and ovaries on the inside, or having a clitoris, labia, and partial vagina, with testicles internally).
- Individuals with typical male or female organs but chromosomes that do not match their appearance (e.g., a person who appears physically to be male but has XX or XXY chromosomes).

PREA also now requires new policies related to showers, pat-downs, and strip searches. Transgender inmates and those born with intersex conditions must be allowed to shower separately from other inmates if they wish, and searches must be conducted in the least intrusive manner possible. Staff must receive specific training on conducting searches of trans people in a respectful and professional manner. PREA rules prohibit any searches or physical exams



Popular Pages

- [Annual Conference](#)
- [10 Facts About Women in Jails](#)
- [2015 Conference Schedule](#)
- [Registration](#)
- [Housing](#)
- [Seminars »](#)
- [Education](#)
- [Jobs Listing](#)
- [2015 Workshop Overview](#)
- [Members Only](#)

whose purpose is solely to determine an individual's genital status.

The introduction of national regulations regarding the housing and treatment of trans and intersex inmates is groundbreaking, and the momentum of reforms, given that all States have to demonstrate compliance with the new rules, is breathtaking. But these rules may not go far enough.

If an invasive physical search of a transgender inmate is necessary, the best way to protect that individual from sexual exploitation is not merely to train staff on how to be professional, but to ensure that more than one staff member is conducting the search, and to ask the inmate which gender of staff member they feel most comfortable conducting the search.

The PREA rule on housing decisions is commendable, but facilities also should ensure that those decisions are made before an inmate is automatically given a male haircut. Transgender inmates should be provided the institutional clothing they prefer, including a bra for trans women (male-to-female) inmates. In addition, trans inmates should be called by the first name and pronoun they request, even if their names have not been legally changed. One of the most prevalent forms of bullying and harassment of transgender inmates is the insistence by others on referring to the inmate by his or her assigned sex at birth. In short, to create a safe environment for transgender inmates, those running a facility must demonstrate a commitment to being respectful and supportive of their gender identity.

PREA, however, is silent on the unique medical care needs of transgender individuals. It should be ensured, for example, that physicians and nurses are knowledgeable and nonjudgmental regarding gender identity and health care related to gender transition. When an individual who was receiving transition-related hormone treatment before confinement arrives in a facility, medical staff should evaluate and authorize continued treatment in accordance with accepted professional standards.

For agencies that operate jails, prisons, and juvenile facilities, the take-home message is that if you want to end sexual victimization, start by treating those who are at risk of abuse and harassment with dignity. Transgender inmates are, by far, the most vulnerable population in confinement settings, and meeting the unique safety needs of this population requires protective and supportive measures beyond those now required by Federal law.

LGBTI Teenagers

Because of their smaller size, teenagers in adult jails and prisons are extremely vulnerable to sexual victimization by other inmates, whether they identify as LGBTI or not. Although teenagers represent a small percentage of inmates in adult facilities, they account for a very large proportion of rape victims. Ironically, they are sometimes harmed further by measures that correctional administrators take to protect them, which often amount to long-term solitary confinement. When young people are isolated and deprived of social contact, they experience intense agitation, hopelessness, paranoia, hallucinations, and other mental health deterioration. In fact, those who are held in adult facilities are 36 times more likely to commit suicide while in custody than their same-age peers in juvenile facilities.

Reform advocates pushed the U.S. Department of Justice to use PREA as a vehicle to remove kids from adult facilities nationwide, and to require States to house them in juvenile facilities whether they were tried as juveniles or as adults. These advocates, however, did not succeed. The final PREA regulations focused instead on separating youth from adults in jails and prisons and not relying on solitary confinement to protect youth from sexual violence.

Although teenagers are generally safer in juvenile facilities than in adult facilities, sexual abuse happens in juvenile facilities too, so PREA also applies to them. Because the new rules have a broad focus—not only eliminating rape, but also preventing and addressing sexual harassment—they are vastly improving the environment for LGBTI teenagers.

Harassment of LGBTI youth and homophobic slurs are as rampant in juvenile detention and correctional facilities as they are in American schools. In fact, many LGBTI youth end up in the juvenile justice system as a result of their mistreatment by peers in school. Students who are routinely harassed based on their actual or perceived sexual orientation or gender identity are more likely than other students to be threatened or injured at school, more likely to get into fights, and more likely to skip school because they feel unsafe. Their home and families may not offer a refuge from the rejection and abuse they experience at school because many, if not most, LGBTI youth also experience rejection or outright intolerance from parents and other family members. When these youth end up in court, it is often because they have skipped school or run away from home. Others have brought weapons to school, struggled with drugs and alcohol, or engaged in dangerous, promiscuous, or criminal behavior to cope or survive. Although LGBTI youth are a minority, they are disproportionately represented in juvenile court.

EXHIBIT 5



POLICY REVIEW AND DEVELOPMENT GUIDE

*Lesbian, Gay, Bisexual, Transgender,
and Intersex Persons in Custodial Settings*

Table of Contents

Foreword	iii
Acknowledgments	v
Chapter 1. Introduction and Overview	1
I. Introduction	1
A. Purpose and Intent of this Guide	1
B. Issues in Providing Care and Safety for LGBTI Individuals in Custody	2
II. Evolving Terminology and Definitions	3
A. Gender Identity	3
B. Sexual Orientation.....	4
C. Intersex.....	4
D. Use of Terminology and Acronyms.....	4
III. Core Principles for Understanding LGBTI Individuals in Custody	5
A. Awareness and Self-Identification.....	5
B. Do No Harm: The Necessity of Medical and Mental Health Care.....	5
IV. Emerging Data on LGBTI Individuals in Custodial Settings and the Challenges They Face	6
A. LGBTI Individuals in Custodial Settings.....	6
B. What the Data Illustrate.....	6
C. Risk, Housing, and Classification	7
Chapter 2. LGBTQI Youth under Custodial Supervision	9
I. The Law	9
A. Constitutional Law.....	9
II. National Prison Rape Elimination Act Standards	12
III. Other Governing Principles: State Human Rights Law and Professional Codes of Ethics	13
IV. Elements of Legally Sound and Effective Policy and Practice	13
A. Nondiscrimination Policies	14
B. Intake, Risk Assessment, and Classification	15
C. Housing Specifications for Transgender and Intersex Youth	16

EXHIBIT 6

NATIONAL
**PRISON
RAPE**
ELIMINATION
COMMISSION

REPORT

NATIONAL PRISON RAPE ELIMINATION COMMISSION **REPORT**

JUNE 2009

Executive Summary

Rape is violent, destructive, and a crime—no less so when the victim is incarcerated. Until recently, however, the public viewed sexual abuse as an inevitable feature of confinement. Even as courts and human rights standards increasingly confirmed that prisoners have the same fundamental rights to safety, dignity, and justice as individuals living at liberty in the community, vulnerable men, women, and children continued to be sexually victimized by other prisoners and corrections staff. Tolerance of sexual abuse of prisoners in the government’s custody is totally incompatible with American values.

Congress affirmed the duty to protect incarcerated individuals from sexual abuse by unanimously enacting the Prison Rape Elimination Act of 2003. The Act called for the creation of a national Commission to study the causes and consequences of sexual abuse in confinement and to develop standards for correctional facilities nationwide that would set in motion a process once considered impossible: the elimination of prison rape.

This executive summary briefly discusses the Commission’s nine findings on the problems of sexual abuse in confinement and select policies and practices that must be mandatory everywhere to remedy these problems. It also covers recommendations about what leaders in government outside the corrections profession can do to support solutions. The findings are discussed in detail and thoroughly cited in the body of the report, where readers will also find information about all of the Commission’s standards. Full text of the standards is included as an appendix to the report.

In the years leading up to the passage of PREA and since then, corrections leaders and their staff have developed and implemented policies and practices to begin to prevent sexual abuse and also to better respond to victims and hold perpetrators accountable when prevention fails. They have been aided by a range of robust Federal initiatives, support from professional corrections associations, and advocates who have vocally condemned sexual abuse in confinement. The landscape is changing. Training curricula for corrections staff across the country now include information about sexual abuse in confinement and how to prevent it.

Sexual abuse is “not part of the penalty that criminal offenders pay for their offenses against society.”

—U.S. Supreme Court

however—a huge barrier for some—so the likelihood of underreporting still exists. Researchers also recognize that prevalence levels can be artificially elevated by false allegations. BJS designs its surveys to ask questions of prisoners in several different ways and also uses analytic tools to assess data for false reports.

FINDING 2

Sexual abuse is not an inevitable feature of incarceration. Leadership matters because corrections administrators can create a culture within facilities that promotes safety instead of one that tolerates abuse.

In 2006, the Urban Institute surveyed 45 State departments of corrections about their policies and practices on preventing sexual abuse and conducted in-depth case studies in several States. Not surprisingly, the surveys and case studies identified strong leadership as essential to creating the kind of institutional culture necessary to eliminate sexual abuse in correctional settings. The Commission has defined clear standards that corrections administrators can and must champion to prevent sexual abuse and make facilities safer for everyone—reforms in the underlying culture, hiring and promotion, and training and supervision that vanguard members of the profession are already implementing.

To begin with, every correctional agency must have a written policy mandating zero tolerance for all forms of sexual abuse in all settings, whether it is operated by the government or by a private company working under contract with the government. Although not mandated under the standards, collective bargaining agreements should feature an explicit commitment from unions and their members to support a zero-tolerance approach to sexual abuse. Without it, there is little common ground upon which to build when negotiating the many specific policies and procedures to prevent and respond to sexual abuse.

Ultimately, the culture of an institution is shaped by people not by policies. Leaders need the right staff to create a genuine culture of zero tolerance. In particular, administrators must thoroughly screen all new job applicants and make promotions contingent on a similarly careful review of each staff member's behavior on the job to prevent hiring, retaining, or promoting anyone who has engaged in sexual abuse. Conducting criminal background checks, making efforts to obtain relevant information from past employers to the extent permissible under law, and questioning applicants about past misconduct must be mandatory. Rigorous vetting is not enough, however. Correctional agencies urgently need support in

Leaders need the right staff to create a genuine culture of zero tolerance. Rigorous vetting is crucial; so are supporting and promoting staff that demonstrate commitment to preventing sexual abuse.

EXHIBIT 7

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

Safe Prisons Program Fiscal Year 2011



Prepared By

**Texas Department of Criminal Justice
PREA Ombudsman
Office of the Inspector General**

April 2012

IV. Use of an offender's assault history in making housing assignments.

The use of an offender's assault history in making cell assignments is set forth in the following policies:

AD-04.17, "Offender Housing Assignment Criteria and Procedures"

- ◆ "Unless there are specific mitigating circumstances, an offender shall not be assigned to dormitory housing at an ID unit, irrespective of his custody designation, if:
 1. The offender has been convicted within the previous 12 months of a disciplinary offense involving possession of a weapon; or
 2. The offender has been convicted within the previous 24 months of a disciplinary offense involving either assault with a weapon or aggressive (or assaultive) sexual misconduct; or
 3. The offender demonstrates a recent pattern of in-prison assaultive behavior."

Safe Prisons Plan:

- ◆ "Placement of Aggressive/Assaultive Offenders in Administrative Segregation or Change of Custody Due to Major Disciplinary Offenses.

A change of custody for the offender-aggressor in accordance with the *Disciplinary Rules and Procedures for Offenders* and *Classification Plan* is also an option. Instead of placing the more vulnerable offender in another housing area, this option removes the offender who has engaged in aggressive or assaultive behavior. Although a change in custody cannot be effected by unit/facility administration, it may be authorized by the Unit Classification Committee (UCC) without further approval unless it involves placing the aggressor in Administrative Segregation (maximum custody). Assignment of an offender to Administrative Segregation shall be conducted in accordance with the *Administrative Segregation Plan*. Removing the aggressor not only protects the offender specifically found to be at risk, but other offenders in their housing area as well. Additionally, placing the offender-aggressor in a more restrictive custody classification (G4, G5 or Administrative Segregation) will limit their opportunity to victimize other offenders and encourage them to modify their aggressive behavior."

V. Use of protective custody or safekeeping status.

Protective custody is a classification available within Administrative Segregation for those offenders who require separate housing from the general population due to threats of harm by others or the likelihood of victimization. These offenders require a higher degree of safety and security in a more controlled environment than general population offenders do in order to provide for their protection.

Safekeeping status is a general population housing status assigned to offenders who need protection from other offenders, and whose need for protection could be met by housing them separately in the general population. Offenders assigned to Safekeeping status are separated from other general population offender by housing assignment. This separation makes it difficult for general population offenders to enter their housing areas. In addition, safekeeping offenders receive their recreation time and meals apart from the general population.

The following factors are taken into consideration as well as any other relevant circumstances prior to placement in protective custody or safekeeping:

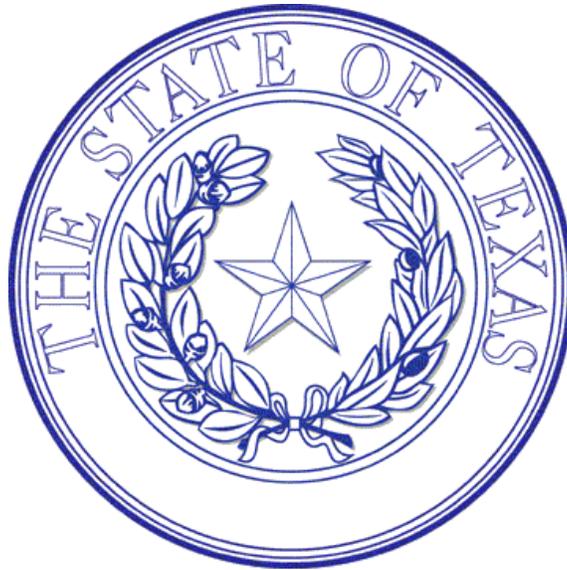
1. Any objective evidence discovered during an investigation that would indicate an offender is being extorted or victimized. Examples of objective evidence include visible physical injuries, medical reports, commissary account records, witness accounts and other similar evidence;
2. Offender's physical size;
3. Mental/physical impairments;
4. Age/first time offender;
5. Sexual orientation (claims of homosexuality should be corroborated by permanent records, disciplinary reports or any other evidence to support homosexual activity).
6. Determination whether the problem is unit or geographic specific. If an offender's alleged problem is confined to a specific individual, alternatives such as cell changes or unit transfer could alleviate the situation;
7. Factors that would preclude an offender's placement into safekeeping. For example, it would not be prudent to recommend safekeeping for an offender who has a felony conviction for sexual assault of another offender; or
8. An offender's previous history in safekeeping status on prior commitment.

Staff from the Classification and Records Department produces a Monthly Activity Report that tracks:

1. The number of requests for protective custody/safekeeping/transfers;
2. The number of offenders placed in protective custody/safekeeping/transfers;
3. The number of offenders denied protective custody/safekeeping/transfers;
4. The number of requests that include allegations of extortion, sexual assault and violence; and
5. The number of times an offender has signed a waiver stating that he no longer needed protection.

The *Classification Plan* sets forth the characteristics and boundaries of Protective Custody and Safekeeping, while the *Safe Prisons Plan* discusses the procedures to be used in assisting offenders who may need protection.

EXHIBIT 8



TEXAS DEPARTMENT OF CRIMINAL JUSTICE

OFFENDER ORIENTATION HANDBOOK

as

Approved by the

Texas Department of Criminal Justice
Director of the Correctional Institutions Division

Printed
JANUARY 2015

Prison Offender Custody Levels:

State Jail Offender Custody Levels:

1. Administrative Segregation
2. General Population Level 5 (G5)
3. General Population Level 4 (G4)
4. General Population Level 3 (G3)
5. General Population Level 2 (G2)
6. General Population Level 1 (G1)

1. Administrative Segregation (SR)
2. General Population Level 5 (J5)
3. General Population Level 4 (J4)
4. General Population Level 2 (J2)
5. General Population Level 1 (J1)

1. Administrative segregation, SR custody for state jail offenders, refers to offenders who must be separated from the general population because they are dangerous, either to other offenders or staff, or they are in danger *from* other offenders. Offenders who, according to the Security Threat Group Management Office (STGMO), are members of security threat groups designated by TDCJ, may be given this custody level. These offenders leave their cells, for the most part, only for showers and limited recreation. Offenders assigned to administrative segregation in expansion cellblocks shower in their cells.
2. General population Level 5 (G5) or (J5) custody refers to offenders who have assaultive or aggressive disciplinary records. G5 or J5 custody offenders must live in cells. They may not work outside the security fence without direct, armed supervision.
3. General population Level 4 (G4) or (J4) custody means the offender must live in a cell, with few exceptions, and may work outside the security fence under direct armed supervision. J4 state jail offenders may be housed in designated dorms.
4. General population Level 3 (G3) refers to prison offenders who may live in dorms or cells inside the main building of the unit. G3 offenders are ineligible to live in dorms outside the main building of a unit, inside the security fence. G3 offenders will be generally assigned to field force and secure jobs inside the perimeter as designated by the warden. They may work outside the security fence under direct armed supervision. (state jail offenders are not assigned to level 3 custody as this custody is reserved for offenders serving sentences of 50 years or greater.)
5. General population Level 2 (G2) or (J2) custody refers to offenders who may live in dorms or cells inside the security fence. They may work outside the security fence under direct armed supervision.
6. General population Level 1 (G1) or (J1) custody allows offenders to live in dorms outside the security fence. Offenders living in trusty camps will be classified OT custody. They may work outside the security fence with periodic unarmed supervision.

Note: Offenders in general population custody levels may also be given a safekeeping status (P2 – P5) if they need an added level of protection from other offenders.

B. Committees

In TDCJ, a classification committee determines an offender’s custody.

1. Unit Classification Committee (UCC)

Responsible for assigning an offender a custody level. This custody level designates where offenders will live on the unit and what job(s) they are eligible for. Offenders appear before this committee when they arrive on a new unit. They also meet with the UCC when routine classification decisions are needed.

2. Administrative Segregation Committee (ASC)

Responsible for the process of reviewing offenders for placement in administrative segregation and routine reviews of those offenders.

3. State Classification Committee (SCC)

A central administrative classification committee that makes final decisions with regards to agency-wide issues and unit classification committee recommendations. During the intake process, the SCC makes decisions concerning the initial assignment of an offender to a unit. The SCC also makes final decisions regarding administrative segregation, safekeeping, and requests for protection.

4. Security Precaution Designator Review Committee (SPDRC)

The authority that determines the eligibility for removal of a security precaution designator code from the offender's record. This committee is also the authority that determines if a security precaution designator should remain in the offender's record after designated timeframes expire.

C. Inter-Unit Transfers

Inter-unit transfers are transfers from one unit to another. Offenders do not have a right to choose their unit of assignment. Inter-Unit transfers are based on departmental and offender needs. Transfer requests follow a process. The warden, the Unit Classification Committee or the proper department head must first recommend transfer requests. If approved at the unit level, the unit will then contact the State Classification Committee for final approval.

Transfer requests for medical or educational reasons must be made to the appropriate department. For example, the Education Department must review and approve a transfer request to attend a four-year college program. If approved, the department head forwards the request to the State Classification Committee for its review. The State Classification Committee will **not** review transfer requests directly from offenders.

Some offenders have problems/conflicts on their unit and want a transfer. These offenders should contact the unit staff for help. If further review is needed, the State Classification Committee will be contacted.

Hardship transfer requests may be considered to accommodate immediate family members listed on the offender's approved visitation list if medical documentation can be obtained. The request must come from the offender's immediate family member.

D. Good Conduct Time

Note: Only prison-sentenced offenders convicted of first, second, or third degree felonies receive good conduct time.

N. Suspension of General Visits

Loss of general visitation privileges cannot be imposed as a punishment upon conviction for a disciplinary violation. However, general visitation privileges shall be suspended while offenders are in solitary confinement. Visitation privileges may be suspended for offenders on lockdown status in accordance with AD-03.31, "Unit Lockdowns Procedures."

IV. VISITS FOR OTHER CATEGORIES

A. Developmental Disabilities Program (DDP) and Psychiatric In-Patient

Determinations regarding visitation for offenders in an DDP Sheltered Facility or psychiatric in-patient facility shall be made on a case-by-case basis by the offender's Program Treatment Team according to the following criteria.

1. Psychiatric in-patients are allowed contact visits in accordance with the computer recommended custody. Offenders who have no disciplinary for 12 consecutive months shall be allowed to receive contact visits with immediate family members. These offenders shall be reviewed and approved by the Program Treatment Team which shall consist of a psychiatric or rehabilitation aide supervisor or designee, and with the warden's approval.
2. Visitation for all psychiatric in-patient facilities may be scheduled for any day of the week, at the discretion of the warden or designee and the Program Treatment Team.

B. Psychiatric Out-Patient

Psychiatric out-patients are eligible for general and contact visits in accordance with the offender's custody.

C. Transient Status

Offenders in transient status or housing except those undergoing intake processing are eligible for general visits in the same manner as all other general population offenders. Contact visitation for these offenders is allowed in accordance with the criteria and procedures outlined in these rules and at the discretion of the warden or designee, as in cases where offenders are being housed in transient status due to a protection investigation.

D. Safekeeping Status

Offenders in safekeeping status are eligible for general and contact visits in accordance with the same criteria and procedures as all other general population offenders.

E. Pre-Hearing Detention

Offenders in pre-hearing detention are not allowed to have contact visits while in this status, irrespective of custody level or time-earning status. However, these offenders are allowed to have general visits in accordance with the same criteria and procedures as general population offenders.

EXHIBIT 9

EMERGENCY GRIEVANCE

copy 2 of 2

Texas Department of Criminal Justice



STEP 1

OFFENDER GRIEVANCE FORM

OFFICE USE ONLY

Grievance #: _____
 Date Received: _____
 Date Due: _____
 Grievance Code: _____
 Investigator ID #: _____
 Extension Date: _____
 Date Retd to Offender: _____

Offender Name: JOSLINA D. ZOLLICOFFER TDCJ # 1138161
 Unit: BC Housing Assignment: 7-H-48^T
 Unit where incident occurred: BC

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? LETTERS TO PREAMBUDMAN / SEC When? 2-17-15

What was their response? NONE

What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

I AM A TRANSGENDER INMATE. I HAVE EXPERIENCED SEVERAL CRIMES AGAINST ME IN TDCJ'S CUSTODY. IN 2007 I WAS RAPED AND IN 2013 I WAS ATTACKED WITH A WEAPON BY A KNOWN GANG MEMBER. THIS TIME AS WELL AS SEVERAL OTHER TIMES OFFICIALS IN TDCJ HAVE MADE LIGHT OF MY PLEAS AND NEGLECTED THE KNOWN FACT THAT GANGS OPERATE SYSTEM WIDE, UNIT TO UNIT IN THE GENERAL POPULATION. SIMPLY TRANSFERRING ME FROM UNIT TO UNIT IN GENERAL POPULATION TO FACE THE SAME ISSUES. JUST AS IN THE PAST ON OTHER UNITS I NOW FACE SEXUAL HARASSMENT FROM SEVERAL OFFENDERS ON THE CLEMENTS UNIT. JUST AS ON OTHER UNITS I HAVE HAD MY LIFE THREATENED BY KNOWN GANG MEMBERS FOR MY CONFLICTS WITH THEIR GANG ASSOCIATES BEING TOLD THAT "IT IS JUST A MATTER OF TIME" BEFORE THEY CAN GET THE OPPORTUNITY TO KILL ME. THESE PROBLEMS AS WELL AS PEOPLE MAKING DEMANDS THAT I SUBMIT TO THE PRISON'S CUSTOM IN REGARDS TO TRANSGENDER AND STAY INMATES THAT I HAVE "TO BE WITH SOMEBODY". I FEAR FOR MY WELL BEING AND ITS BEEN SHOWN THAT I AM NOT SAFE IN GENERAL POPULATION.

Action Requested to resolve your Complaint. I REQUEST HOUSING AND SAFE KEEPING.

Offender Signature: *Joshua D. Falgout*
Grievance Response:

Date: 2-18-2015

Signature Authority: _____ Date: _____
If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- 1. Grievable time period has expired.
- 2. Submission in excess of 1 every 7 days. *
- 3. Originals not submitted. *
- 4. Inappropriate/Excessive attachments. *
- 5. No documented attempt at informal resolution. *
- 6. No requested relief is stated. *
- 7. Malicious use of vulgar, indecent, or physically threatening language. *
- 8. The issue presented is not grievable.
- 9. Redundant, Refer to grievance # _____
- 10. Illegible/Incomprehensible. *
- 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

OFFICE USE ONLY	
Initial Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
2nd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
3rd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____

Copy 2 of 2



Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

OFFICE USE ONLY	
Grievance #:	_____
Date Received:	_____
Date Due:	_____
Grievance Code:	_____
Investigator ID #:	_____
Extension Date:	_____
Date Retd to Offender:	_____

Offender Name: JOSHUA D. ZOLLICOFFER TDCJ # 1138161
 Unit: BC Housing Assignment: 4-F-31 F
 Unit where incident occurred: BC

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? MAJOR HARDEGREE & MS. GRANT When? 2-23-15
 What was their response? "DO ABSOLUTELY NOTHING FOR YOU..."
 What action was taken? NONE.

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

ON THE MORNING OF ~~2-23-15~~ 2-23-15 I WENT TO VCC IN FRONT OF MAJOR HARDEGREE, MS. GRANT AND CAPT. THOMAS CONCERNING IN RE AND OPI WHICH WAS FILED ON 2-20-15. AFTER NO AMMOUNT OF TIME, NO INVESTIGATION AND NO CONCERN FOR MY SAFETY OR WELL BEING MAJOR HARDEGREE DID SAY OUT OF HIS OWN MOUTH THAT HIS DECISION WAS TO DO "ABSOLUTELY NOTHING FOR YOU AND SEND YOU RIGHT BACK OUT THERE" DESPITE THE FACT THAT I AM A TRANSGENDER OFFENDER WITH A HISTORY OF BEING VICTIMIZED BY SEVERAL INMATES IN THE PAST AS WELL AS THE FACT THAT ITS BEEN SHOWN THAT IN MY SEVERAL OPTS AND THE REQUESTS FOR SAFEKEEPING THAT I AM NOT SAFE HOUSED IN THE GENERAL POPULATION. DESPITE KNOWING THAT GANGS OPERATE OUTSIDE OF JUST @ 1 DESIGNATED UNIT AND THAT PROBLEMS AND CONFLICTS FROM 1 UNIT OFTEN FOLLOW OFFENDERS FROM UNIT TO UNIT. MAJOR HARDEGREE STILL MADE HIS DECISION TO HOUSE ME BACK INTO THE GENERAL POPULATION OF THE CLEMENTS UNIT. THE REASON FOR THE OPT IN THE 1ST PLACE IS BECAUSE DURING MY TIME ON CLEMENTS I HAVE BEEN HARRASSED, PROPOSITIONED AGGRESSIVELY, GROPED AND THREATENED BY SEVERAL INMATES AS WELL AS BEING THREATENED BY SEVERAL GANG MEMBERS BEING TOLD THAT I WILL BE KILLED FOR THE PART I PLAYED IN MY CONFLICT WITH A KNOWN GANG MEMBER (A CRIP) WHICH CULMINATED IN ME BEING SLASHED ACROSS THE FACE WHICH REQUIRED 36 STITCHES. STILL, EVEN AFTER SUPPLYING OFFICERS WITH THE NAMES OF WHO & WHAT WAS TAKING PLACE MAJOR HARDEGREE AND MS. GRANT CHOSE TO DO NOTHING AS IF TO SAY, "SO HAVE SEX FOR YOUR SAFETY, SO FIGHT THE GANG MEMBERS OFF OF YOU." FURTHERMORE, THEY HOUSED ME IN 4 BUILDING-F-POD 31 CELL. A CELL WHICH HOUSES OFFENDERS WHO

E 9-4 CUSTODY LEVEL OFFENDERS WHERE I AM FURTHER PLACED AT RISK OF HARM BECAUSE I AM FORCED TO SHOWER AND EAT WITH 9-4 OFFENDERS AND I AM A 9-2. THEY DID THIS KNOWING FULL WELL THAT 2 OF THE OFFENDING 9-4 MEMBERS WHO THREATENED MY LIFE "SOLDIER BOY" AKA "FROST" AND CHRISTOPHER STAVES AKA "J-LOC" ARE 9-4 OFFENDERS AND THERE HAS BEEN RECENT VIOLENCE ON THE UNIT BETWEEN 9-4 OFFENDERS WHO LIVE ON 3 BUILDING AND 9-2 OFFENDERS WHO LIVE ON 4 BUILDING AND I AM HOUSED ON A "TRANSIENT" SECTION THAT ALSO HOUSES 9-4 OFFENDERS, MAKING IT EASY FOR CRIPS CONNECTED TO THOSE ON 9-4 WHO THREATENED ME TO CAUSE ME HARM.

Action Requested to resolve your Complaint.

I REQUEST TO APPEAL THE USC DECISION AND

REQUEST HOUSING ON SAFE KEEPING.

Offender Signature:

Joshua D. Fullbright

Date:

2-23-15

Grievance Response:

Signature Authority:

Date:

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- 1. Grievable time period has expired.
- 2. Submission in excess of 1 every 7 days. *
- 3. Originals not submitted. *
- 4. Inappropriate/Excessive attachments. *
- 5. No documented attempt at informal resolution. *
- 6. No requested relief is stated. *
- 7. Malicious use of vulgar, indecent, or physically threatening language. *
- 8. The issue presented is not grievable.
- 9. Redundant, Refer to grievance # _____
- 10. Illegible/Incomprehensible. *
- 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY	
Initial Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
<u>2nd Submission</u>	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
<u>3rd Submission</u>	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____

2 of 2
1 Pdo



Texas Department of Criminal Justice

OFFENDER
STEP 1 GRIEVANCE FORM

OFFICE USE ONLY	
Grievance #:	_____
Date Received:	_____
Date Due:	_____
Grievance Code:	_____
Investigator ID #:	_____
Extension Date:	_____
Date Retd to Offender:	_____

Offender Name: JOSHUA D. ZOLLICOFFER TDCJ # 1138161
 Unit: BC Housing Assignment: 11-PLD-4
 Unit where incident occurred: BC

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? MAJOR HARDEGRE & M.S. GRANT When? 2-23-15
 What was their response? "WE WILL DO ABSOLUTELY NOTHING FOR YOU".
 What action was taken? NONE -

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AFTER SEEING US FOR AN OPI ON 2-23-15 I WAS RETALIATED AGAINST BY MAJOR HARDEGRE, M.S. GRANT AND THE CLEMENTS UNIT ADMINISTRATION BY 1) BEING MOVED ON A SECTION WITH 61-4 OFFENDERS, EVEN THOUGH I AM A 612 PLACING ME IN DANGER OF COMING TO HARM AFTER FILING A COMPLAINT OF SEXUAL HARASSMENT AND THREATS TO MY LIFE BY CRIP GANG MEMBERS WHO ARE ON 4 OFFENDERS. PLACING ME IN A POSITION WHERE THEY HAVE EASIER ACCESS TO ME TO CAUSE ME HARM. FURTHERMORE, AFTER MOVING ME WITHOUT SCREENING ME, I WAS PLACED IN A CELL WITH A KNOWN CRIP GANG MEMBER BACK ON 7 BUILDING NAMED ISAAC DAVIS. PLACING ME IN DANGER BY 1) HOUSING ME BACK ON 7 BUILDING WITH THE SAME OFFENDERS WHO SEXUALLY HARASSED & STROPEID ME. 2) MOVING THE SAME OFFENDER, KEVIN HALL, WHOM I ALSO SPECIFICALLY COMPLAINED ABOUT TO 7 BUILDING H-POD. PLACING HIM IN A POSITION WHERE HE CAN GET TO ME EASIER. EVEN AFTER I COMPLAINED TO OFFICERS ABOUT HIM AND SPECIFICALLY NAMED HIM IN AN OPI. 3) THEY FURTHERMORE FAILED TO NOTE DURING THE OPI INVESTIGATION THAT OFFENDER LINWOOD AKA "EIGHT-TRE" WAS A KNOWN PREDATORY OFFENDER. THE CLEMENTS UNIT ADMINISTRATION HAS TAKEN PAINS TO NOT ONLY DISREGARD MY SAFETY, THEY HAVE ALSO DONE THEIR BEST TO DISCOURAGE ME AND OTHER OFFENDERS FROM MAKING COMPLAINTS ABOUT BEING THREATENED AND SEXUALLY HARASSED BY PLACING US IN FURTHER HARM OR THREATENING TO HARASS OUR CELLS AND BLAME US AS OFFICER GARCIA WITH THE SAFE PRISONS OFFICE THREATENED ME UPON ARRIVAL TO THE UNIT! FRONT OF HIS SUPERIORS. PURPOSELY PLACING A SYSTEM IN PLACE FOR GROSS DELIBERATE INDIFFERENCE, RETALIATION FOR MEN'S COMPLAINTS AND DISCRIMINATION BY TELLING GAY AND TRANSGENDER OFFENDERS TO "STOP ACTING GAY" AVOID PROBLEMS IN THE GENERAL POPULATION. IMPLYING THAT AN INDIVIDUAL

DESERVES TO BE HARRASSED, ASSAULTED AND THREATENED BECAUSE OF THEIR SEXUAL ORIENTATION OR GENDER IDENTITY.

Action Requested to resolve your Complaint.
I REQUEST TO BE MOVED ON SAFE KEEPING AND TO STOP BEING RETALIATED AGAINST, AND DISCRIMINATED ON.
Offender Signature: [Signature] Date: 3-1-15
Grievance Response:

Signature Authority: _____ Date: _____
If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response.
State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- 1. Grievable time period has expired.
- 2. Submission in excess of 1 every 7 days. *
- 3. Originals not submitted. *
- 4. Inappropriate/Excessive attachments. *
- 5. No documented attempt at informal resolution. *
- 6. No requested relief is stated. *
- 7. Malicious use of vulgar, indecent, or physically threatening language. *
- 8. The issue presented is not grievable.
- 9. Redundant, Refer to grievance # _____
- 10. Illegible/Incomprehensible. *
- 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

I-127 Back (Revised 11-2010)

OFFICE USE ONLY	
Initial Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
2nd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
3rd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____

EXHIBIT 10

HELLO.

I AM A 31 YEAR OLD TRANSGENDER PERSON CURRENTLY HOUSED ON THE CLEMENTS UNIT IN AMARILLO, TX. DURING MY INCARCERATION I HAVE BEEN VICTIM TO SEVERAL CRIMES AGAINST ME BY OTHER PRISONERS. IN 2007 I WAS RAPED. IN 2013 I WAS SLASHED ACROSS THE FACE + FOREHEAD WITH A WEAPON BY A KNOWN GANG MEMBER. I'VE ALSO BEEN FORCED INTO SEVERAL SEXUAL RELATIONSHIPS IN ORDER TO AVOID HARM AT THE HANDS OF OTHERS. I HAVE BEEN ASSIGNED TO 7 DIFFERENT UNITS IN TDCJ AND HAVE FACED THE SAME ISSUES ON EACH. YET, I AM FORCED TO REMAIN IN THE GANG INFLUENCED GENERAL POPULATION OF OFFENDERS WHO HAVE TARGETED ME FOR SEX AND THREATENED MY LIFE. DUE TO MY MANNERISMS, THE WAY I TALK AND MY GENDER IDENTITY I'VE ALWAYS BEEN IDENTIFIED AS FEMININE BY OTHER PRISONERS AND TARGETED.

ON NOVEMBER 17, 2014 I WAS TRANSFERRED TO THE BILL CLEMENTS UNIT. RECENTLY I HAVE BEEN SEXUALLY HARRASSED BY OTHER INMATES AS WELL AS THREATENED WITH RAPE. I HAVE BEEN PRESSURED, BROPED AND TOLD THAT I "NEED" TO BE WITH SOMEONE AND THAT ALL THE "GIRLS" ON THIS UNIT HAVE TO BE WITH SOMEONE, AS IS THE CUSTOM ON MOST UNITS IN REGARDS TO TRANSGENDER AND GAY PRISONERS. I CONSTANTLY FEAR THAT I WILL BE SEXUALLY ASSAULTED AGAIN OR ASSAULTED FOR REFUSING TO SUBMIT TO THE WILL OF OTHER PRISONERS.

I FEAR GOING TO THE CLEMENTS SAFE PRISON'S OFFICIALS BECAUSE I WAS TOLD UPON ARRIVAL TO THE CLEMENTS UNIT THAT IF I WANT TO AVOID PROBLEMS ON THE UNIT THAT I NEED TO "STOP ACTING GAY" AND NOT CARRY MYSELF IN A FEMININE MANNER. AS IF TO SAY THAT I DESERVE TO BE TREATED IN THIS MANNER OVER SOMETHING I CANT HELP. THAT I AM NOT ENTITLED TO PROPER PROTECTION BECAUSE OF MY IDENTITY.

DURING MY TIME ON (COFFIELD) AN OFFENDER NAMED KEVIN HALL (WHO IS A CRIP GANG MEMBER.) TRIED TO MAKE ME BE WITH HIM. HE IS NOW HOUSED ON THIS UNIT AND HAS CONSTANTLY PRESSURED AND PROPOSITIONED ME, TELLING ME THAT I NEED TO BE "HIS BITCH" AND HE WANTS MY "PUSSY". HE'S EVEN GONE SO FAR AS TO TELL SEVERAL INMATES ON MY BUILDING AND THE UNIT AT LARGE

Case 4:14-cv-03027 Document 46-1 Filed in TXSD on 03/04/15 Page 15 of 15
IF I AM ASKED TO TELL SEVERAL OTHER CRIPS TO WATCH ME AND REPORT TO HIM WHO I SPEAK TO AND WHAT I AM DOING. HE REFUSED TO ACCEPT NO AS AN ANSWER AND CONTINUES TO HARRASS ME.

I HAVE ALSO BEEN PRESSURED AND THREATENED BY OTHER GANG MEMBERS. I HAVE HAD MY BUTTOCKS GROPED BY A GANG MEMBER WHO LIVES ON MY POD THAT THEY CALL "EIGHT-TRE". HE RECENTLY TOLD ME THAT HE WOULD BE COMING TO MY SECTION OUT OF PLACE TO MAKE ME GIVE HIM ORAL SEX WHETHER I WANT TO OR NOT. I FEAR FOR MY LIFE AND I FEAR THAT I WILL BE THE VICTIM OF VIOLENCE AT THE HANDS OF OTHERS BECAUSE I REFUSE TO HAVE SEX.

I AM ALSO FACING THREATS BY SEVERAL MEMBERS OF THE CRIPS ON THE UNIT BECAUSE OF MY CONFLICT WITH JASON TOWNSEND ON HUGHES UNIT IN 2013. (THE OFFENDER WHO ATTACKED ME WITH A WEAPON.) SEVERAL CRIPS WHO WERE ON HUGHES UNIT AND WERE CLOSE TO TOWNSEND ARE NOW HOUSED ON CLEMENTS UNIT AND ARE TRYING TO CAUSE ME FURTHER HARM AS A CONSEQUENCE OF MY CONFLICT WITH HIM. 2 IN PARTICULAR ARE A CRIP NAMED CHRISTOPHER BRAVES AKA "S-LOC" AND ANOTHER CRIP WHO IS CALLED "SOLDIER BOY." BOTH LIVED ON THE SAME SECTION AS TOWNSEND ON HUGHES UNIT IN 2013. BRAVES HAS SENT SEVERAL MESSAGES AFTER FINDING OUT I WAS ON THE UNIT SAYING THAT IT IS ONLY A MATTER OF TIME BEFORE THEY CATCH UP WITH ME AND HE KILLS ME. HE IS ALSO USING HIS INFLUENCE TO INCITE OTHER CRIPS ON THE UNIT TO CAUSE ME HARM.

I HAVE MADE SEVERAL REQUESTS IN THE PAST FOR HELP. NOBODY SHOULD HAVE TO LIVE LIKE THIS. I SHOULDN'T HAVE TO HAVE SEX IN ORDER TO SURVIVE. NOR SHOULD I HAVE TO LIVE WITH MY LIFE CONSTANTLY BEING THREATENED BY KNOWN GANG MEMBERS WHILE TDCJ OFFICIALS ARE FULLY AWARE THAT GANGS OPERATE SYSTEM-WIDE. I REQUEST HOUSING ON SAFE KEEPING AWAY FROM THE POPULATION OF OFFENDERS WHO WILL CONTINUE TO VICTIMIZE ME.

THANK YOU.
JOSHUA D. ZOLLICOFFER
#1138161