

138. TDCJ is and has been aware of these and similar statistics. For example, from September 2012 through August 2013, TDCJ's Office of the Inspector General documented 378 allegations of inmate abuse meeting the elements of Texas Penal Code 22.011 (Sexual Assault) and 22.021 (Aggravated Sexual Assault): 14 from Hughes, 18 from Robertson, and 24 from Clements.

139. In 2011, the Department of Justice's Review Panel on Prison Rape held a PREA-mandated hearing and invited three correctional institutions with a high prevalence of victimization to submit testimony. **Defendant Livingston** provided testimony for TDCJ and addressed statistics showing that abusive sexual contact at one facility were alarmingly high. The panel also heard testimony that TDCJ's "practice does not appear to conform to [its] policies." The Panel noted that a significant number of complaints were from inmates who self-identified as homosexual and recommended that prison administrators provide training to staff on the vulnerability of homosexual inmates and to take steps to protect them from sexual assault."

140. Defendants also are and have been aware that prison gang-related crime and violence pose a significant threat to LGBT people in custody. Gang members, including members of the Bloods and the Crips, have been responsible for many sexual and physical assaults and homicides in TDCJ facilities.

141. TDCJ collects, analyzes, and disseminates gang-related information to its staff and law enforcement agencies. TDCJ currently recognizes twelve gangs or security threat groups ("STGs"), including the Bloods and the Crips, who operate and coordinate unlawful activities across TDCJ facilities and outside TDCJ facilities.

142. In particular, **Defendant Davis**, as Deputy Director of Management Operations, is responsible for overseeing, *inter alia*, the STG Management Office, and thus is aware of these

gangs or STGs, including the Bloods and the Crips, that such groups pose a significant threat to LGBT people in custody, that they have been responsible for many assaults and murders in TDCJ facilities, and that such groups operate and coordinate unlawful activities across TDCJ facilities and outside TDCJ facilities.

143. Additionally, **Defendant Eason**, as Deputy Director of Prison and Jail Operations, is responsible for overseeing, *inter alia*, the Security Operations Department, and thus is aware of the impact of gangs and STGs on the security of TDCJ facilities, the serious incidents involving such groups, and staffing and operations policies, procedures, and compliance.

144. At all relevant times, Defendants were aware that individuals who have a conflict with one gang member are at risk of violence from other members of the same gang, that gangs or STGs operated throughout TDCJ facilities, and that their reach extends beyond a particular unit.

**Defendants Have Authorized or Condoned Conduct that
Tolerates Sexual Abuse of Incarcerated LGBT People**

145. **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** condoned, ratified, and/or adopted and continue to condone, ratify, and/or adopt widespread and pervasive customs and practices that are so deficient that these defendants are deliberately indifferent to the substantial risk of serious harm to LGBT inmates, including Ms. Star.

146. The custom condoned by **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** permits inmates who are vulnerable to sexual abuse, like Ms. Star, to remain in the general population without adequate protections to prevent them from being sexually and/or physically assaulted. Upon information and belief, TDCJ staff members regularly refuse to offer safekeeping protection to inmates, including Ms. Star, who are

vulnerable to sexual abuse, even when the inmates specifically and repeatedly request that status and other alternatives to protect them prove ineffective. Consequently, many vulnerable inmates are victims of sexual assault, which includes being coerced into involuntary sexual relationships with stronger or more powerful people in custody, who are frequently gang members.

147. **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** condoned and ratified a custom and practice by which incarcerated people are not adequately screened for vulnerability to sexual abuse and separated from likely aggressors, and continue to condone or ratify this custom or practice. Upon information and belief, TDCJ staff do not use the information available to them that LGBT people and people who have been previously sexually abused in the general population, like Ms. Star, are substantially vulnerable to future serious abuse. The custom in place permitted TDCJ staff at multiple units to suggest that Ms. Star should enjoy being sexually abused and ridicule her, instead of recognizing that Ms. Star's LGBT identity makes her more vulnerable to sexual assault.

148. **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** failed to train and/or supervise, and continue to fail to train and/or supervise the implementation of written policies that, in contrast to the widespread and pervasive custom and practice, require that inmates be screened for vulnerability and separated from likely aggressors, taking into account "whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming"; "whether the inmate has previously experienced sexual victimization"; and "the inmate's own perception of vulnerability." § 115.41.

149. **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** condoned and ratified, and continue to condone and ratify, a custom and practice of insufficient direct supervision to protect inmates from sexual abuse or for guards to properly supervise the

inmates in their care. Upon information and belief, TDCJ has not been able adequately to identify and retain qualified employees. Upon information and belief, inattentive and undercompensated guards allow gang members and other aggressive inmates to have the run of the prison, to exert control over other inmates, and to victimize vulnerable inmates. Upon information and belief, video surveillance is insufficient to document and/or deter sexual predation in the general population at TDCJ facilities. Many areas in the general population lack security cameras.

150. In contrast to the widespread and pervasive custom and practice in TDCJ, Texas's written policies and PREA require that TDCJ maintain "adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse." 28 C.F.R. § 115.13. Despite their awareness of the problems resulting from not implementing this written policy, **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** failed and continue to fail to adequately train and/or supervise their subordinates with regards to adequate supervision of the people in their custody.

151. **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** condoned and ratified a custom and practice where TDCJ staff are inadequately trained on the importance of protecting inmates from sexual abuse, and they continue to do so. Upon information and belief, training provided to TDCJ employees is perfunctory and inadequate to ensure that staff members know how to prevent sexual abuse and how to respond to allegations of threatened sexual abuse. Upon information and belief, PREA training is a joke for many TDCJ employees, who believe that sexual assault of LGBT people is funny. Upon information and belief, high turnover rates and the influx of new staff means that many staff have not been trained or had only basic training. According to a 2012 survey of TDCJ correctional officers,

conducted by the Texas Criminal Justice Coalition, more than half the correctional officers surveyed do not believe that they receive adequate training, and nearly two-thirds do not believe the training they have received has prepared them for the challenges of their job.

152. In contrast to the widespread and pervasive custom and practice in TDCJ, Texas's written policies and PREA require TDCJ to train all employees who may have contact with inmates on the zero-tolerance policy for sexual abuse and sexual harassment; the dynamics of sexual abuse and sexual harassment in confinement; how to detect and respond to signs of threatened and actual sexual abuse; how to prevent, detect, report, and respond to allegations; the common reactions of sexual abuse and sexual harassment victims; and how to communicate effectively and professionally with inmates, including LGBT, intersex, or gender-nonconforming inmates. *See* 28 C.F.R. § 115.31. Despite their awareness of the problems resulting from inadequate training, **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** failed, and continue to fail, to adequately train and/or supervise their subordinates with regards to adequate training of TDCJ staff.

153. **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** condoned and ratified, and continue to condone and ratify, a custom and practice of disrespect for LGBT people. TDCJ has not adequately trained its staff concerning professional interactions with LGBT or gender-nonconforming inmates. In fact, as alleged above, it is common for TDCJ staff to call inmates "faggot" and "punk," to speak to them in a derogatory manner, and to suggest that gay incarcerated people enjoy being raped. Furthermore, upon information and belief, TDCJ staff purposefully use the incorrect gender pronoun when interacting with transgender people despite the serious harm that this can cause and allow other incarcerated people to target LGBT people for abuse because of their sexual orientation and/or gender

identities.

154. In contrast to the widespread and pervasive custom and practice in TDCJ, Texas's written policies and the PREA require that TDCJ train its employees "[h]ow to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates." 28 C.F.R. § 115.13(9). Despite their awareness of the problems resulting, **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** failed, and continue to fail, to adequately train and/or supervise their subordinates with regards to adequate training of the people in their custody.

155. **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** condoned and ratified a widespread custom and practice of perfunctory and incomplete investigation of inmate complaints, including grievances, and they continue to do so. TDCJ staff failed, and continue to fail, to actively investigate complaints of assaults, sexual harassment, and threats to the safety of vulnerable incarcerated people, like Ms. Star. Upon information and belief, the widespread custom and practiced condoned TDCJ staff when they failed to adequately review Ms. Star's repeated complaints or respond reasonably given the fact that the assaults and threats were based on her perceived sexual orientation and her gender identity. When investigating Ms. Star's complaints, TDCJ staff, with the acquiescence of Defendants, ignored the well-known culture of silence in prisons that offers swift and severe retribution for "snitches" and instead approached Ms. Star's complaints as necessarily unworthy of attention unless substantiated by additional witnesses or evidence, when often the only witnesses were Ms. Star and the inmate who was threatening or assaulting her. Defendants seemingly ignored the physical evidence of Ms. Star's repeated abuse and summarily closed Ms. Star's grievances, ignoring her pleas to be placed in safekeeping.

156. **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** failed, and continue to fail, to train and/or supervise TDCJ staff to ensure that they gather and preserve direct and circumstantial evidence; take immediate action to protect inmates from a substantial risk of imminent sexual abuse; and take an active role in the investigation, interviewing alleged victims, suspected perpetrators, and witnesses, and reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator, in conformity with written policies. *See* §§ 115.34, 71.

157. In contrast to this widespread and pervasive custom and practice, the Texas Safe Prisons Plan requires that safekeeping status be available for incarcerated people in all general population custody levels “who require separate housing from general population because of threats to their safety due to a history of homosexual behavior, a potential for victimization, or other similar reasons.” Inmates in safekeeping sleep and receive their meals and recreation time apart from the general population and are thus provided additional protection from inmate-on-inmate sexual abuse. Despite their awareness of the problems resulting, **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** failed, and continue to fail, to adequately train and/or supervise their subordinates with regards to the safekeeping policy.

158. **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** condoned and ratified a widespread practice and custom whereby incarcerated people reporting threats to their safety are held in involuntary segregated housing, in conditions known to cause harm to them, and they continue to do so. Upon information and belief, TDCJ staff members employ isolation and the threat of isolation as a tool to deter inmates from complaining about sexual and other abuse in TDCJ facilities. Despite alternative placement options, including safekeeping, as a result of reporting threats against her, Ms. Star has been involuntarily held in

solitary confinement for periods exceeding 30 days, in conditions similar to those used to punish inmates for disciplinary infractions.

159. **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** failed, and continue to fail, to train and/or supervise TDCJ staff in the implementation of Texas's written policies and PREA, which prohibit the use of involuntary segregated housing unless a determination has been made that there is no available alternative means of separation from likely abusers and, in any case, only "until an alternative means of separation from likely abusers can be arranged." *See* § 115.43.

160. The PREA Ombudsman office, formerly headed by **Defendant Bales** and now headed by **Defendant Sharp**, is charged, *inter alia*, with monitoring the policies for responding to inmate sexual abuse and ensuring that complaints of sexual abuse are impartially and adequately investigated, but does not adequately investigate and respond to complaint of sexual abuse. Upon information and belief, the office employs only three staff members, a staff wholly insufficient to review and investigate hundreds of complaints of sexual abuse every year.

161. Although **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** are knowledgeable about PREA and have even incorporated many of the mechanisms to prevent sexual abuse in prisons into TDCJ's written policies, such as the Safe Prisons Plan, these defendants have failed, and continue to fail, to adequately train and supervise their staff on the known mechanisms to reduce and prevent sexual abuse of inmates, demonstrating deliberate indifference to the substantial risk of serious harm to LGBT inmates, including Ms. Star.

162. If **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** had adequately trained and supervised their staff and/or implemented PREA or Texas's written policies, such as the Safe Prisons Plan, Ms. Star would not have lived under the constant threat of

sexual assault and other harm and would not have been repeatedly assaulted. Defendants' failure to train and supervise their staff and ratification of a culture of apathy toward sexual assault and disrespect for LGBT people caused Ms. Star's injuries and the continuing, severe threat to her constitutional rights. Consequently, they failed, and continue to fail, to take reasonable steps to protect Ms. Star from the risk of future sexual and/or physical assault.

**Defendants Failed to Act Reasonably after Receiving Direct
Notice of the Risk of Serious Harm to Ms. Star**

163. **Defendant Bales**, the former PREA Ombudsman, received several letters from Ms. Star describing the substantial risk of serious harm that she faced, including letters on March 27, 2014, and March 28, 2014. Nevertheless, on April 8, 2014, without determining that her pleas were unfounded, Defendant Bales informed Ms. Star that he would take no action to protect her.

164. **Defendant White**, Assistant Director of TDCJ's Classification and Records Department, upon information and belief, was aware that Ms. Star had been assaulted in the past by other inmates in TDCJ facilities and was at substantial risk of serious future assaults. Defendant White oversaw the SCC during the times that Ms. Star made numerous appeals to the SCC for protection. Upon information and belief, Defendant White received at least two letters from Ms. Star pleading for help and multiple grievances that Ms. Star submitted, but refused to act or authorize action to protect Ms. Star.

165. **Defendant Armstrong**, Assistant Regional Director, refused to take or authorize reasonable actions to protect Ms. Star, even though he was aware that she had been assaulted in the past by other inmates at Hughes and Robertson, as well as other TDCJ facilities, and was at risk of future assaults by inmates. Between November 2013 and October 2014, Defendant Armstrong reviewed and denied at least six appeals of grievances in which Ms. Star sought

safekeeping because of threats of violence and imminent harm. On May 30, 2014, he denied a recommendation by the UCC at Robertson to transfer Ms. Star to a new unit.

166. **Defendant Fuster**, Assistant Regional Director, refused to take or authorize reasonable actions to protect Ms. Star even though he was informed that she had been assaulted in the past by other inmates at Hughes and Robertson, as well as other TDCJ facilities, and was at substantial risk for serious future assaults. Defendant Fuster reviewed at least one grievance in which Ms. Star requested safekeeping because of threats of violence and imminent harm. He denied Ms. Star's request for safekeeping and further denied a recommendation by the UCC to transfer Ms. Star from Robertson to a new unit.

167. **Defendant Dean**, Senior Warden at Hughes, was aware that Ms. Star had been assaulted in the past by other inmates and was at substantial risk of serious future assaults. Ms. Star sent him a letter detailing the threats against her in October 2013. Upon information and belief, Defendant Dean received and reviewed this letter, but took no action to protect her.

168. **Defendant Blanchard**, Assistant Warden at Hughes, was aware that Ms. Star had been assaulted in the past by other inmates at Hughes and was at substantial risk of serious future assaults. Nevertheless, Defendant Blanchard denied at least four grievances submitted by Ms. Star regarding threats and violence against her. On November 19, 2013, as a member of the UCC, Defendant Blanchard denied Ms. Star's request for safekeeping based on violence and threats against her and had her moved to the same pod in the general population where her attacker was housed, and again denied her request for safekeeping on November 22, 2013, after she was attacked.

169. **Defendant Maldonado**, Assistant Warden at Hughes, denied at least two grievances submitted by Ms. Star regarding violence and threats of violence against her,

disregarded readily available evidence, and failed to adequately investigate Ms. Star's claims. Even though Defendant Maldonado was aware that Ms. Star had been assaulted by other inmates at Hughes in the past and was at substantial risk of serious future assaults, on November 22, 2013, Defendant Maldonado disregarded information that Ms. Star had been viciously attacked two days earlier and denied her request for safekeeping.

170. **Defendant Marez**, a Major at Hughes, was aware that Ms. Star had been assaulted by other inmates at TDCJ facilities in the past and was at substantial risk of serious future assaults. Nevertheless, he denied at least five requests by Ms. Star to be placed in dormitories, and on November 4, 2013, as a member of the UCC, denied Ms. Star's request for safekeeping.

171. **Defendant Sigmund**, a Captain at Hughes, was aware that Ms. Star had been assaulted by other inmates at TDCJ facilities in the past and was at substantial risk of serious future assaults. Nevertheless, on November 19, 2013, Defendant Sigmund denied Ms. Star's request for safekeeping and had her moved to the same pod in the general population where her attacker was housed, and again denied her request for safekeeping on November 22, 2013, after she was attacked in that pod.

172. **Defendant Pickett**, a Sergeant in Hughes, was informed that Ms. Star had been assaulted by other inmates at TDCJ facilities in the past and was at substantial risk of serious future assaults. Nevertheless, on November 19, 2013, Defendant Pickett ignored Ms. Star's desperate plea for help to protect her against a threatened attack and refused to take action to protect her from the attack that occurred the next morning.

173. **Defendant Walters**, a Classification Secretary at Hughes, was aware that Ms. Star had been assaulted by other inmates at TDCJ facilities in the past and was at substantial risk

of serious future assaults. Nevertheless, on November 19, 2013, Defendant Walters denied Ms. Star's request for safekeeping and had her moved to the same pod in the general population where her attacker was housed, and again denied her request for safekeeping on November 22, 2013, after she was attacked.

174. In light of the following, **Defendants Bales, Sharp, White, Armstrong, Fuster, Dean, Blanchard, Maldonado, Marez, Sigmund, Pickett, and Walters**, were personally aware that Ms. Star was at substantial risk of serious harm, and they should have placed her in safekeeping or taken other actions to reduce the harm and the threat of harm to her.

FIRST CLAIM FOR RELIEF
Preliminary and Permanent Injunctive and Declaratory Relief
U.S. Const. Amend. VIII—Deliberate Indifference
(Against Defendants Livingston, Stephens,
Sharp, Eason, Davis, and White, in their Official
Capacities)

175. Plaintiff incorporates by reference all previous paragraphs of this Amended Complaint as if fully set forth here.

176. With deliberate indifference to Ms. Star's personal health and safety, **Defendants Livingston, Stephens, Sharp, Eason, Davis, and White** failed, and continue to fail, to protect her from substantial risk of serious harm in violation of her rights under the Eighth and the Fourteenth Amendments to the United States Constitution, and 42 U.S.C. § 1983.

177. **Defendants Livingston, Stephens, Sharp, Eason, Davis, and White** are aware that violence in the prison was frequent and regular and that predatory gangs operated across TDCJ facilities and targeted vulnerable inmates, including Ms. Star, for violence, sexual assault, and sexual exploitation.

178. **Defendants Livingston, Stephens, Sharp, Eason, Davis, and White** are aware that gay men and transgender women housed in male correctional institutions, including Ms.

Star, are particularly vulnerable to violence, sexual assault, and sexual exploitation. The substantial risk of serious harm to Ms. Star is obvious.

179. In addition, **Defendant White** has personal knowledge of the substantial risk of serious harm to Ms. Star and failed to take reasonable safeguards to protect Ms. Star, despite their knowledge of a substantial risk to her safety.

180. **Defendants Livingston, Stephens, Sharp, Eason, Davis, and White** are disregarding the immediate and substantial risk of serious harm to Ms. Star and failing to act reasonably to prevent Ms. Star from being sexually and physically assaulted. **Defendants Livingston, Stephens, Sharp, Eason, Davis, and White** failed, and continue to fail, to train, supervise, and enforce TDCJ employees adequately regarding TDCJ policies and, specifically, measures to protect gay and transgender people in custody from the substantial risk of serious harm.

181. **Defendants Livingston, Stephens, Sharp, Eason, Davis, and White** disregarded, and continue to disregard, a known or obvious consequence of their failure to train and supervise their subordinates adequately and to enforce TDCJ policies. As a consequence of the lack of proper training and/or supervision of TDCJ staff and enforcement of the TDCJ policies, Ms. Star suffered not only a substantial risk of serious harm, but also was assaulted, lacerated, raped, and forced to perform sexual acts against her will.

182. Contrary to the actual written TDCJ policies, **Defendants Livingston, Stephens, Sharp, Eason, Davis, and White** have condoned, ratified, and /or adopted, and continue to condone, ratify, and/or adopt, a widespread and pervasive custom and practice that deters inmates from filing complaints, denies them protection from sexual assault and physical abuse, refuses to investigate inmate complaints, and fails to staff and fund the facilities in a way that

adequately protects against physical violence among inmates, including measures to protect gay and transgender inmates from the substantial risk of serious harm.

183. **Defendants Livingston, Stephens, Sharp, Eason, Davis, and White** disregarded, and continue to disregard, a known or obvious consequence of the widespread and pervasive custom and practice they have adopted or permitted to occur. As a consequence of the widespread and pervasive custom and practice adopted by these defendants, Ms. Star suffered not only a substantial risk of serious harm, but also was assaulted, lacerated, raped, and forced to perform sexual acts against her will.

184. The actions and omissions of **Livingston, Stephens, Sharp, Eason, Davis, and White** are so grave that they violate contemporary standards of decency by exposing anyone unwilling to a substantial risk of serious harm, and it is clearly established that such deliberate indifference is a violation of the Eighth Amendment's prohibition of cruel and unusual punishment.

185. The Court should declare that the conduct of **Defendants Livingston, Stephens, Sharp, Eason, Davis, and White** as described in this First Claim for Relief violated the Eighth Amendment's prohibition of cruel and unusual punishment, and the Fourteenth Amendment to the United States Constitution, and 42 U.S.C. § 1983.

186. Without preliminary and permanent injunctive relief, Ms. Star will most certainly continue to suffer severe irreparable harm for which she has no adequate remedy at law. Ms. Star is likely to succeed on the merits of her claim and, in any event, the balance between the harm to the Plaintiff in failing to grant injunctive relief greatly outweighs any potential harm to the Defendants in granting injunctive relief. Finally, the public interest is always served in holding governmental actors accountable for violating the constitutional rights of its citizens.

187. The Defendants should be preliminarily and permanently enjoined by a court order directing them to place Ms. Star in safekeeping or take alternative measures to protect her from the threat of sexual assault and other violence in TDCJ and directing them to enforce the existing written policy in all respects that ensures the safekeeping of LGBT incarcerated people, like Ms. Star.

SECOND CLAIM FOR RELIEF
Damages and Declaratory Relief
U.S. Const. Amend. VIII
(Against All Defendants in their personal capacities)

188. Plaintiff incorporates by reference all previous paragraphs of this Amended Complaint as if fully set forth here.

189. With deliberate indifference to Ms. Star's personal health and safety, **Defendants Livingston, Bales, Stephens, Sharp, Eason, Davis, White, Armstrong, Fuster, Dean, Blanchard, Maldonado, Marez, Sigmund, Pickett, and Walters** failed to protect her from substantial risk of serious harm in violation of her rights under the Eighth and the Fourteenth Amendments to the United States Constitution, and 42 U.S.C. § 1983.

190. In addition, **Defendants Bales, White, Armstrong, Fuster, Dean, Blanchard, Maldonado, Marez, Sigmund, Pickett, and Walters** had personal knowledge of the threats to Ms. Star and the substantial risk of serious harm to her.

191. **Defendants Livingston, Bales, Stephens, Sharp, Eason, Davis, White, Armstrong, Fuster, Dean, Blanchard, Maldonado, Marez, Sigmund, Pickett, and Walters** failed to take reasonable safeguards to protect Ms. Star despite their knowledge of a substantial risk to her safety.

192. The actions and omissions of **Defendants Livingston, Bales, Stephens, Sharp, Eason, Davis, White, Armstrong, Fuster, Dean, Blanchard, Maldonado, Marez, Sigmund, Pickett, and Walters** are so grave that they violate contemporary standards of decency by exposing anyone unwilling to a substantial risk of serious harm, and it is clearly established that such deliberate indifference is a violation of the Eighth Amendment's prohibition of cruel and unusual punishment.

193. **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** failed to train, supervise, and enforce TDCJ employees adequately regarding TDCJ policies and, specifically, measures to protect gay and transgender inmates from the substantial risk of serious harm.

194. **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** disregarded a known or obvious consequence of their failure to train and supervise their subordinates adequately and to enforce TDCJ policies. As a consequence of the lack of proper training and/or supervision of TDCJ staff and enforcement of the TDCJ policies, Ms. Star suffered not only a substantial risk of serious harm, but also was assaulted, lacerated, raped, and forced to perform sexual acts against her will.

195. Contrary to the actual written TDCJ policies, **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** have condoned, ratified, and/or adopted a widespread and pervasive custom and practice that deters inmates from filing complaints, denies them protection from sexual assault and physical abuse, refuses to investigate inmate complaints, and fails to staff and fund the facilities in a way that adequately protects against physical violence among inmates, including measures to protect gay and transgender inmates from the substantial risk of serious harm.

196. By so doing, **Defendants Livingston, Stephens, Sharp, Eason, Davis, Bales, and White** disregarded a known or obvious consequence of the widespread and pervasive custom and practice they have condoned, ratified, and/or adopted. As a consequence of the widespread and pervasive custom and practice condoned by these defendants, Ms. Star suffered not only a substantial risk of serious harm, but also was assaulted, lacerated, raped, and forced to perform sexual acts against her will.

197. **All Defendants** were aware that violence in the prison was frequent and regular and that predatory gangs operated across TDCJ facilities and targeted vulnerable people in custody, including Ms. Star, for violence, sexual assault, and sexual exploitation.

198. **All Defendants** were aware that gay men and transgender women housed in male correctional institutions, including Ms. Star, were particularly vulnerable to violence, sexual assault, and sexual exploitation. The substantial risk of serious harm to Ms. Star was obvious.

199. The Court should declare that the conduct of **Defendants**, as described in this Complaint and alleged in the First Claim for Relief, above, violated the Eighth Amendment's prohibition of cruel and unusual punishment. The Court should further declare that the law proscribing **Defendants'** conduct was clearly established as unconstitutional at the time they engaged in such conduct.

200. Plaintiff was harmed and suffered damages as a result of all of the **Defendants'** misconduct, including damages for the physical injuries, permanent disfigurement, excruciating emotional pain, and lasting psychic trauma. Thus, Plaintiff is entitled to recover compensatory damages against all Defendants in their personal capacities.

201. The **Defendants** acted with a malicious or evil intent or callous disregard of Plaintiff's federally protected rights. Additionally, Defendants engaged in "oppressive" conduct

that misused official authority or exploited the Plaintiff's weakness. Accordingly, Plaintiff is entitled to an award of punitive damages against all Defendants in their personal capacities.

IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following relief from the Court:

1. A preliminary injunction pursuant to Fed. R. Civ. P. 65 prospectively enjoining Defendants from housing Ms. Star in the general population or, in the alternative, giving adequate notice to counsel of no less than fourteen days prior to any attempt to do so;
2. A permanent injunction prospectively directing Defendants to maintain Plaintiff in safekeeping status while she remains in TDCJ custody;
3. A declaratory judgment that the practices, acts, and omissions complained of herein violated Plaintiff's rights;
4. Expungement of any disciplinary violations on Plaintiff's record connected to Defendants' failure to protect Plaintiff;
5. Appropriate medical and psychiatric treatment and counseling for Plaintiff's physical and psychic injuries suffered as a result of Defendants' acts and omissions;
6. Compensatory damages, including damages for the physical injuries, permanent disfigurement, excruciating emotional pain, and lasting psychic trauma, against each Defendant who is named in his or her personal capacity;
7. Punitive damages against each Defendant who is named in his or her personal capacity;
8. Pre- and post-judgment interest as permitted by law;
9. Reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988; and

10. Such further relief as the Court may deem just and proper.

Dated January 28, 2015

Respectfully submitted,

Kenneth D. Upton, Jr.

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**Admitted pro hac vice*

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

On January 28, 2015, I electronically submitted the foregoing document to the clerk of court for the U.S. District Court, Southern District of Texas, using the electronic case filing system of the Court. I hereby certify that I have served the following counsel of record electronically through the Court's ECF system.

Kim Coogan
Attorney for Defendants Brad Livingston, Ralph Bales, Joni White,
Bruce Armstrong, and Fernando Fuster

Christin Cobe Vasquez
Attorney for Defendants Kenneth Dean, Brian Blanchard, Rene Maldonado,
James Sigmund, Leslie Walters, Ralph Marez, Jr., and Prince Pickett

The following additional defendants have been added in the Amended Complaint and will be served in accordance with Rule 4, Federal Rules of Civil Procedure: William Stephens, Lynne Sharp, Lorie Davis, and Robert Eason.

s/ Christina N. Goodrich
Christina N. Goodrich