

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

ASHLEY DIAMOND,

Plaintiff,

v.

TIMOTHY WARD, individually and in his official capacity as Commissioner of the Georgia Department of Corrections; SHARON LEWIS, individually and in her official capacity as the Statewide Medical Director of the Georgia Department of Corrections; JAVEL JACKSON, individually and in her official capacity as Director of Mental Health of the Georgia Department of Corrections; AHMED HOLT, individually and in his official capacity as Assistant Commissioner, Facilities Division, of the Georgia Department of Corrections; ROBERT TOOLE, individually and in his official capacity as Director of Field Operations of the Georgia Department of Corrections; BENJAMIN FORD, individually and in his official capacity as Warden of the Georgia Diagnostic and Classification Prison; JACK SAULS, in his official capacity as Assistant Commissioner of the Health Services Division of the Georgia Department of Corrections; BROOKS BENTON, individually and in his official capacity as Warden of the

Case No. \_\_\_\_\_

**COMPLAINT**

Coastal State Prison; GRACE  
ATCHISON, individ

3. Ms. Diamond

causing Ms. Diamond physical pain and enormous mental distress. This distress led to self-castration efforts and self-harm, including suicidal ideation and suicide attempts. The abuse stopped only when Ms. Diamond was released on parole on August 31, 2015.

6. Following a parole violation, Ms.

Ms. Diamond, through counsel, sent Defendants nine Notices of Constitutional Violations, including seven letters and two emails, (“Notice(s) of Violations”) between May 1, 2020, and November 6, 2020. These Notices repeatedly notified Defendants of the serial sexual assaults, abuse, and suffering Ms. Diamond was experiencing as a result of their decisions. Yet Defendants took no meaningful action, and Ms. Diamond

physical and mental health. As a result of GDC's healthcare denials, Ms.

facilities and therefore shielded from sexual predation from incarcerated cisgender men.

14. Having fully exhausted her administrative remedies to no avail, Ms. Diamond seeks judicial relief pursuant to 42 U.S.C. § 1983 to ensure that Defendants take reasonable steps to protect her from sexual assault and provide her constitutionally adequate medical care.

15. In other words, Ms. Diamond seeks a court order requiring Defendants to do what they know they must do, what they have previously been notified is their constitutional obligation to do, *but have simply refused to do*.

### **JURISDICTION AND VENUE**

16. This action arises under 42 U.S.C. § 1983.

17. This Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331, which confers original jurisdiction to federal district courts in civil actions arising under the U.S. Constitution and the laws of the United States, and § 1343(a)(3), which confers original jurisdiction to federal district courts in civil actions to redress

18. This Court has personal jurisdiction over each Defendant because each is a resident of Georgia who was employed in Georgia and acted under color of state law at all times relevant to this action.

19. Venue is proper in the Northern District under 28 U.S.C. §§ 1391(b)(1) and (b)(2) because multiple Defendants reside in this District and because a substantial part of the events giving rise to Ms. Diamond's claims occurred in this District.

### **PARTIES**

20. Plaintiff Ashley Diamond is a forty-two-year-old Black transgender woman from Rome, Georgia who is currently in GDC custody. She was also the lead plaintiff in *Diamond I*, a 2015 lawsuit challenging unconstitutional conditions of confinement experienced by transgender people in GDC custody. She is currently being held at Coastal State Prison in Chatham County, Georgia.

#### **Defendants (collectively, the “*Diamond II* Defendants”)**

21. At all times relevant to the events at issue in this case, Defendant Timothy C. Ward is and was the Commissioner of GDC. In his position as Commissioner, Defendant Ward exercises final policy and decision-making authority at GDC, including over policies that relate to the care, treatment, and housing placement of transgender people and people with gender dysphoria in GDC.



Defendant Ward also exercises control over all personnel who enforce those policies. Defendant Ward adopts, enforces, and ratifies policies, customs, and widespread practices concerning the housing and safety of transgender people and the evaluation and treatment of gender dysphoria. Defendant Ward has the authority to issue directives concerning the care, treatment, and housing placements of transgender individuals in GDC custody. Defendant Ward has the authority to issue directives concerning the training and supervision of GDC personnel. Defendant Ward is sued in his individual and official capacities.

22. At all times relevant to the events at issue in this case, Defendant Sharon Lewis is and was the Statewide Medical Director for GDC and a member of the Statewide Classification Committee. In these roles, Defendant Lewis exercises final policy and decision-making authority regarding the care, treatment, safety, and housing placements of transgender people and people with gender dysphoria in GDC. Defendant Lewis controls, trains, and supervises GDC healthcare personnel, and adopts and enforces policies, customs, and practices concerning the evaluation and treatment of people with gender dysphoria within GDC. Defendant Lewis adopts and enforces policies, customs, and practices concerning the housing and safety of transgender people. Defendant Lewis is also responsible for approving or denying GDC treatment plans and requests for gender dysphoria treatment; responding to

identified problems, including grievance appeals; determining housing placements for transgender people, including whether they will be placed in men's or women's facilities; responding to incidents of sexual assault; conducting periodic safety assessments; and approving or denying the placement and transfer requests of transgender individuals. Defendant Lewis is sued in her official and individual capacities.

23. At all times relevant to the events at issue in this case, Defendant Javel Jackson (hereinafter "Defendant J. Jackson") is and was the Statewide Mental Health Director at GDC and a member of the Statewide Classification Committee. In these roles, Defendant J. Jackson exercises final policy and decision-making authority regarding the care, treatment, safety, and housing placements of transgender people and people with gender dysphoria in GDC. Defendant J. Jackson controls, trains, and supervises GDC healthcare personnel, and adopts and enforces policies, customs, and practices concerning the evaluation and treatment of people with gender dysphoria within GDC. Defendant J. Jackson adopts and enforces policies, customs, and practices concerning the housing and safety of transgender people. Defendant J. Jackson is also responsible for approving or denying GDC treatment plans and requests for gender dysphoria treatment; responding to identified problems; determining housing placements for transgender people, including



25. At all times relevant to the events at issue in this case, Defendant Robert Toole is and was the Director of Field Operations at GDC and a member of the Statewide Classification Committee as well as the Georgia Diagnostic and Classification Prison's ("GDCP") Facility Classification Committee. In these roles, Defendant Toole is responsible for overseeing daily operations of GDC facilities and assisting with determinations concerning where transgender people are housed. Defendant Toole had a duty to reasonably protect incarcerated transgender people like Ms. Diamond from a substantial risk of serious harm. Defendant Toole is sued in his official and individual capacities.

26. At all times relevant to the events at issue in this case, Defendant Benjamin Ford is and was the Warden of GDCP. In this role, Defendant Ford exercises ultimate authority, direction, and control over GDCP and its personnel. Defendant Ford is also responsible for recommending whether to transfer transgender women placed in GDCP to a men's or women's facility; for taking reasonable precautionary measures to minimize the foreseeable risk of sexual assault faced by transgender women housed in GDCP; and for taking effective corrective measures after being notified that transgender women in GDCP have experienced sexual assault, abuse, or harassment. Defendant Ford is also responsible for ensuring the health and safety of all incarcerated people at GDCP and that all aspects of the

facility comply with GDC policy and state and federal law, participating in housing decisions for incarcerated people who face a heightened risk of sexual assault and responding to allegations of sexual assault made by incarcerated people within



take adequate steps to respond to and prevent sexual assault and abuse at GDC facilities. Defendant Atchison exercises final policy and decision-making authority regarding the safety and housing placements of transgender people and people with gender dysphoria in GDC. Defendant Atchison adopts and enforces policies, customs, and practices concerning the housing and safety of transgender people. Defendant Atchison is also responsible for determining housing placements for transgender people, including whether they will be placed in men's or women's facilities; responding to incidents of sexual assault against incarcerated transgender people; reviewing sexual abuse incident investigations and recommendations and ensuring implementation of facility improvements to minimize similar incidents of sexual abuse; conducting periodic safety assessments; and approving or denying the placement and transfer requests of transgender individuals. Defendant Atchison is

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Manager at GDCP who had a duty to respond to and prevent sexual abus



their birth certificate solely based on the appearance of external reproductive organs at the time of birth.

37. Transgender individuals are people whose gender identity diverges from the sex they were assigned at birth. Cisgender individuals are people whose gender identity aligns with the sex they were assigned at birth.

38. Ms. Diamond was diagnosed with gender dysphoria at the age of fifteen.<sup>1</sup>

39. Gender dysphoria is a serious medical condition that appears in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders ("DSM-V"). Gender dysphoria causes severe psychological suffering and can lead to physical injury when it is not properly treated.

40. As medically-necessary treatments for her gender dysphoria, Ms. Diamond has lived in accordance with her female gender identity since she was fifteen years old and taken hormone therapy since the age of seventeen. As a result

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<sup>1</sup> The terms "gender identity disorder," "transsexualism," and "transsexual" are used interchangeably in GDC records to describe gender dysphoria, along with people living with the condition, and should be treated as synonyms for purposes of this Complaint.

of her early adolescent transition, Ms. Diamond has developed full breasts and a feminine shape and did not develop facial hair until her adulthood when her treatments were interrupted by GDC.

**The Prior Pattern of Violence, Abuse, and Unconstitutional Neglect**  
**Ms. Diamond Experienced in GDC**

41. When Ms. Diamond first entered GDC custody on April 12, 2012, in connection with a nonviolent offense, she was an openly transgender woman with a feminine appearance.

42. During her intake screening, she notified GDC personnel that she was a transgender woman receiving hormone therapy for her gender dysphoria and requested placement in a women's facility because she feared being sexually abused and assaulted in male facilities.

43. However, GDC officials—including Defendant Lewis—ignored Ms. Diamond's health and safety requests, despite knowing the risks she faced, and subjected her to a horrific sequence of constitutional violations over a multiyear period.

44. *First*, Defendant Lewis and other GDC officials disregarded Ms. Diamond's safety concerns and housed her in a series of men's prisons where she foreseeably became a victim of sexual assault. Defendant Lewis and others also

ignored their own clinicians' requests to have Ms. Diamond transferred to a safer facility.

45. Over the course of three years in GDC custody, Ms. Diamond was sexually assaulted almost a dozen times while GDC officials, including Defendant Lewis, sat idle despite her reports of the unrelenting attacks and her pleas for protection.

46. In May 2012, less than a month after arriving at GDC, Ms. Diamond was brutally gang-raped by six members of a gang, who punched her, stomped on her, and knocked her unconscious. Thereafter, Ms. Diamond was sexually assaulted more than ten times before her August 2015 release from GDC custody.

47. In 2013, following her second assault in GDC custody, GDC clinicians determined that Ms. Diamond was suffering from PTSD due to her sexual assaults and urged that she be transferred to a safer facility for the sake of her physical and mental well-being. To manage her PTSD symptoms, which include nightmares, flashbacks, hypervigilance, dissociation, and difficulty sleeping, Ms. Diamond

Ms. Diamond to “guard her booty” and “be prepared to fight.” They also openly acknowledged that GDC was unable to keep Ms. Diamond safe so long as she remained a transgender woman housed in men’s facilities.

49. *Second*, GDC officials—including Defendant Lewis—denied Ms. Diamond medically necessary gender dysphoria care, including hormone

**Ms. Diamond's Prior Lawsuit Against GDC, *Diamond I***

52. On February 19, 2015, Ms. Diamond commenced *Diamond I*, a lawsuit alleging that Defendant Lewis, the then-GDC Commissioner, the wardens of Ms. Diamond's facilities.

treatment for incarcerated individuals with gender dysphoria and thereafter agreed to provide Ms. Diamond with access to hormone therapy.

56. On September 14, 2015, the U.S. District Court for the Middle District of Georgia denied the defendant's motion for summary judgment. The court found that the defendant had not established that its actions were reasonable under the circumstances. The court also found that the defendant had not established that its actions were necessary to maintain the safety and security of the prison. The court granted summary judgment in favor of the plaintiff.

60. The *Diamond I* Court also held that Defendant Lewis and the GDC wardens responsible for Ms. Diamond’s care were not entitled to qualified immunity with respect to any of Ms. Diamond’s claims because she had clearly established constitutional rights to be protected from sexual assault and to receive medically necessary gender dysphoria care. *Id.* at 1374–75, 1379–80, 1384–85.

61. Ms. Diamond was released on August 31, 2015 for the sake of the public interest, subject to a nine-year term of parole supervision.

62. On February 5, 2016, Ms. Diamond settled her lawsuit, securing policy changes related to medical care for transgender people incarcerated in GDC and a monetary settlement to compensate her for her injuries.

63. On the same day in February 2016, shortly after the resolution of Ms. Diamond’s individual case, the Department of Justice and U.S. Attorney’s Offices across Georgia announced they were commencing a joint investigation concerning the treatment of lesbian, gay, bisexual, and transgender (“LGBT”) people within GDC custody.

64. The statewide investigation into GDC began after the Department of

65. Although the Department of Justice's statewide investigation is ongoing, early reports have confirmed that sexual violence against transgender people and GDC's failure to protect them remain rampant problem







**Ms. Diamond Was Sexually Assaulted by a GDC Staffer in March 2020**

76. On or about March 10, 2020, a GDC staff member known to Ms. Diamond as “Nurse Lucas” grabbed Ms. Diamond’s breasts, asked, “Are they real?” and mocked Ms. Diamond for being transgender.

77. In doing so, Nurse Lucas disregarded federal law and GDC policy, which prohibit staff members from touching the breasts of incarcerated individuals for reasons unrelated to their official job duties. *See* GDC PREA Policy, SOP 208.06(III)(L)(5).

78. Nurse Lucas’s acw -4.52s 3tf m..o6

staffer whose role is to prevent and address sexual assault, evinces a discriminatory and dangerous attitude toward the sexual victimization of transgender women. Defendant L. Smith's comments and actions are reflective of a widespread and pervasive pattern by GDC personnel of disregarding the safety needs of incarcerated transgender people in their custody.

82. Defendants Ward, Lewis, J. Jackson, Holt, Sauls, Toole, Ford, and Atchison were also notified about Nurse Lucas's sexual misconduct through mandatory PREA reporting and communications with Ms. Diamond's counsel. However, they failed to respond to Ms. Diamond's safety needs, despite having the authority and duty to do so.

83. Instead, Defendants Ward, Lewis, J. J10 >>BLBody <</MC9.1(di)8.5s and agatyit  
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85. Ms. Diamond spoke about the Nurse Lucas incident with Ms. Withers, the Retaliation Monitor at GDCP. Ms. Withers communicated to Defendants Ford and L. Smith that Ms. Diamond should be transferred to another facility for her safety and her mental health. Ms. Withers also recommended that medication and food be brought to Ms. Diamond's dorm, noting Ms. Diamond's fears of sexual assault and harassment when going to pill call or the dining area. Defendant Ford declined this request.

**Ms. Diamond Was Sexually Assaulted in April 2020**

86. In April 2020, Ms. Diamond was performing her work duties as an orderly for GDCP and, as part of her work duties, entered a utility closet.

87. An incarcerated man, who had been hiding in the closet, jumped out from behind and grabbed Ms. Diamond. The assailant groped Ms. Diamond and tried to forcibly remove her pants. The assailant also exposed his genitals and masturbated on her.

88. Ms. Diamond reported the incident to Defendant L. Smith, who admitted that she had been warned several times by others that Ms. Diamond's assailant was hiding in the utility closet prior to his attack.

89. On May 1, 2020, Ms. Diamond, through counsel, sent GDC a First Notice of Violations that notified Defendants Ward, Holt, and Sauls that she had

been subjected to repeated but preventable sexual assaults at GDCP, including by Nurse Lucas openly on video. The Notice explained that Ms. Diamond's sexual assaults had taken place because her safety-based housing requests to be placed in a women's facility or otherwise be protected from sexual assault from incarcerated men had been ignored. The Notice also explained that because of the assaults and ongoing fear, Ms. Diamond's health was deteriorating, and asked them to reassess Ms. Diamond's safety and eligibility for a transfer to a female facility to prevent further attacks.

93. On or about May 9, 2020, Defendant A. Smith approached Ms. Diamond while she was working as a GDCP orderly.

94. Defendant A. Smith ordered Ms. Diamond to enter a small windowless office behind a locked gate that is used by GDC officers and requires a key to enter and exit. Defendant A. Smith entered the office with Ms. Diamond and locked the door behind her, trapping Ms. Diamond in the office with her.

95. For the next two hours, Defendant A. Smith kept Ms. Diamond locked in the office and engaged in sexually abusive conduct in violation of PREA and GDC's PREA Policy.

96. Defendant A. Smith stroked Ms. Diamond on her leg and thigh and repeatedly questioned her about her sexual preferences and whom she found sexually attractive at GDCP—actions that were wholly unrelated to her official job duties.

97. Defendant A. Smith finally released Ms. Diamond from the office two hours later and ordered Ms. Diamond to keep quiet about the incident. She complied out of fear.

98. One day later, on May 10, 2020, Defendant A. Smith ordered Ms. Diamond into the same room and instructed her to set up a makeshift bed using a mattress, blankets, and pillows from an adjacent closet.

99. After Ms. Diamond



103. Although this was obviously unlawful and abusive conduct, Officer Ridley did not do anything to assist Ms. Diamond or intervene.

104. After Officer Ridley departed, Defendant A. Smith kept Ms. Diamond locked in the office with her for another two hours and continued engaging in sexually abusive behavior.

105. Defendant A. Smith's actions were coercive, and Ms. Diamond complied out of fear. Following the assault, Ms. Diamond learned that GDC staff who report to Defendant Ford had spread rumors about the incident throughout GDCP. Ms. Diamond even heard a male GDCP officer refer to her in a racially derogatory manner and say, "I want to know about the n\*\*\*\*r who was in the closet fucking the officer."

106. Defendant A. Smith's assault exacerbated Ms. Diamond's PTSD and left her shocked, horrified, and fearful of future assaults, especially at the hands of GDC staff.

107. On May 20, 2020, Ms. Diamond, through a Second Notice of Violations, notified Defendants Ward, Holt, Sauls, Atchison, and Ford of the continued sexual harassment and assaults she was experiencing at the hands of GDC staff and described Defendant A. Smith's attack. However, no corrective action was taken. As a result of Defendants Ward, Holt, Sauls, Atchison, and Ford's failure to

act, Defendant A. Smith approached Ms. Diamond several days later on or around May 26, 2020, and coerced her into writing a statement that she did not tell anyone at GDCP about the incident.

108. Defendant Ford's subordinates also retaliated against Ms. Diamond for filing her PREA complaint against Defendant A. Smith on or about May 29, 2020, by ransacking her cell, confiscating essential items such as food, soap, and property without justification, and partially removing her from her work detail as an orderly. Ms. Diamond, through counsel, sent Defendant Ford and others a Third Notice of Violations on June 3, 2020, notifying them of this incident.

109. As a consequence of the sexual abuse and staff misconduct that Ms. Diamond experienced at GDCP, Ms. Diamond suffered injury and emotional harm, which aggravated her PTSD.

**Ms. Diamond Experienced Continued Abuse Following Her Transfer to Coastal, Another Men's Prison Where Her Risks of Sexual Assault, Abuse, and Harassment were Known and Obvious**

110. On or about June 3, 2020, after suffering six sexual assaults at GDCP, Ms. Diamond was transferred from GDCP to Coastal, another men's prison within GDC.

111. Almost immediately upon her arrival at Coastal, Ms. Diamond again became a target for sexual abuse.

112. During her six months at Coastal, Ms. Diamond has been sexually harassed, abused, and assaulted **eight times** and subjected to pervasive sexual



*Ms. Diamond*



126. Ms. Diamond

131. Ms. Diamond





place later that day, Ms. Diamond was attacked after being lured into a different room. Once there, a different male assailant grabbed her breasts, groped her, and sexually assaulted her until she was able to escape.

139. On September 28, 2020, Ms. Diamond requested to be moved out of her dormitory for fear of further attacks. Ms. Diamond was told that she could not move because Defendant Toole had specified that she is to stay in her current room.

140. On September 29, 2020, Ms. Diamond sent a Sixth Notice of Violations to GDC through counsel notifying Defendants Ward, Lewis, J. Jackson, Holt, Toole, Sauls, Benton, and Atchison of her need for safe housing. The Sixth Notice of Violations detailed the horrific assaults Ms. Diamond experienced between September 18 and 20, 2020, and reiterated that Ms. Diamond was not safe in GDC's men's prisons given her history of victimization and substantial ongoing risks.

141. Despite learning about Ms. Diamond's reports of sexual assault and urgent requests for a safety transfer, Ward, Lewis, J. Jackson, Holt, Toole, Benton, and Atchison individually and collectively, decided not to take any corrective measures to ensure Ms. Diamond's safety from the substantial and realized risk of sexual assaults.

**Ms. Diamond Was Sexually Assaulted Repeatedly in October 2020**

142. On or about October 9, 2020, after Ms. Diamond took her prescribed Trazodone, a male assailant entered her unlocked cell during the night while she was asleep and fondled her while masturbating.

143. Because Defendants Toole and Benton had repeatedly demonstrated their unwillingness to protect her, or even to provide her with a working cell door, Ms. Diamond stopped taking her sleep medications for fear that she would be assaulted again while sleeping in the same dormitory as her past assailants, in a cell that will not lock.

144. On October 23, 2020, Ms. Diamond, through counsel, sent a Seventh

sleep. Later that same day, Ms. Diamond was approached by another man in her dorm who aggressively threatened her with sexual assault, stating that he would “stuff [his] cock in [her] throat.”

146. The failures of Defendants Ward, Holt, Toole, and Benton to take reasonable measures to protect Ms. Diamond after notice of sexual assaults and abuse both exacerbated her risk and reflect the widespread and pervasive pattern of GDC personnel disregarding the safety needs of incarcerated transgender women in their custody.

147. Individually, and in their totality, the sexual assaults Ms. Diamond endured under Defendants’ custody have caused her profound and irreparable physical and emotional harm.

148. On or about October 30, 2020, suffering severe dysphoria as a result of undertreated gender dysphoria, Ms. Diamond attempted to castrate herself and, fearing another imminent sexual assault and distraught that her health and safety needs were still being ignored by GDC, attempted suicide by hanging.

149. Ms. Diamond’s suicide and castration attempt was thwarted by another incarcerated person who entered her unlocked cell, but she continues to struggle with PTSD, caused by her previous sexual assaults in GDC custody, suicidal ideation, self-harm, and impulses to self-castrate.

150. Ms. Diamond remains at continued risk of sexual victimization to this day, in the same dormitory and facility where she was repeatedly assaulted.

151. Ms. Diamond also fears a return to GDC, where she was victimized and to which she could be transferred at any time.

**Defendants Have Also Refused Ms. Diamond Medically Necessary Gender Dysphoria Care**

152. In addition to refusing Ms. Diamond protection from sexual assault, Ms. Diamond has also been denied constitutionally mandated gender dysphoria care—deprivations made all the more egregious because they lie at the heart of *Diamond I*. *Diamond I* put GDC on notice of Ms. Diamond’s gender dysphoria needs and the severe consequences of not providing her medically necessary care, including depression, suicidality, and self-castration attempts.

153. Notwithstanding this knowledge and despite the written policy GDC adopted in response, Defendants Ward, Lewis, J. Jackson, and Sauls have refused to provide Ms. Diamond “constitutionally appropriate medical and mental health treatment” for gender dysphoria, consistent with the “[c]urrent, accepted standards of care” since her return to custody. GDC Management & Treatment of Offenders Diagnosed with Gender Dysphoria, SOP 507.04.68(I), (IV) (2015) (hereinafter “Gender Dysphoria Policy”).

154. Instead of treating Ms. Diamond's gender dysphoria in accordance with the accepted Standards of Care, Defendants Ward, Lewis, J. Jackson, and Sauls have

- a. Changes in gender expression, including through pronoun usage, grooming (including, *e.g.*, hair removal for transgender women), and dress to match one's internal gender;
- b. Receiving hormone therapy to promote the development of

- c. Attempting to treat gender dysphoria with mental health counseling alone, or in combination with psychotropic drugs, is a gross departure from accepted medical practice that puts individuals with gender dysphoria at a severe risk of physical injury, decompensation, and death.

161.





first time. Consequently, Ms. Diamond now requires access to body and facial hair removal treatment such as electrolysis, laser hair removal, or medicated creams.

168. When Ms. Diamond is denied medically necessary gender dysphoria care, she experiences symptoms such as severe depression, anxiety, suicidal ideation, self-harm, and self-castration attempts as a form of self-treatment. When Ms. Diamond receives adequate gender dysphoria treatment, her well-being improves, her symptoms such as self-castration attempts completely abate,xx1 a ia tr.3iaaticiaatm

expression. GDC's failure to provide treatment, specifically hormone therapy and gender expression, Dr. Ettner noted, "rekindled the gender dysphoria that she had successfully managed for nearly two decades," and caused Ms. Diamond to experience suicidal ideation and attempt suicide and self-castration. Declaration of Dr. Randi C. Ettner at ¶ 52, *Diamond I*, No. 5:15-cv-50 (M.D. Ga. Feb. 20, 2015), ECF No. 2-1.

172. Dr. Ettner specified that accommodations for Ms. Diamond's gender expression, including being allowed clothing, grooming, and hairstyle modifications that permit her to outwardly express her gender, are "[i]ntegral to successful treatment of gender dysphoria." *Id.* at ¶ 70.

173. None of the clinicians who have evaluated and treated Ms. Diamond since her re-entry into GDC custody have disputed Dr. Sloan and Dr. Ettner's consensus that the appropriate treatment for Ms. Diamond is hormone therapy and accommodations for her gender expression.

174. Since Ms. Diamond's re-entry in 2019, GDC psychiatrist Dr. David Roth has recommended that Ms. Diamond receive a treatment plan providing her

regularly shave and to receive consistent doses of hormone therapy, which are necessary to her well-being.

175. Dr. Daniel Fass, a GDC psychologist who also evaluated Ms. Diamond, has also advocated for Ms. Diamond to receive accommodations related to her gender expression and contacted Defendants Lewis and J. Jackson to alert them to the fact that GDC's existing approach to care was inadequate.

176. However, the medical consensus and treatment recommendations of Ms. Diamond's clinicians within GDC have been summarily overruled by Defendants Lewis, J. Jackson, and Sauls who have never taken the time to individually evaluate Ms. Diamond or her treatment needs.

- b. Hormone therapy is provided to transgender people who lack outside legal advocates, if at all, only after significant delay;
- c. Hormone therapy, to the extent it is provided, will typically be in doses that are sub-therapeutic due to lack of monitoring, interruption, and delay;
- d. GDC clinicians recommending treatment beyond hormone therapy or counseling are summarily blocked without an individualized assessment of need;
- e. Transgender people are denied allowances for gender expression, subjected to gender-based harassment, and punished by GDC staff for their perceived gender nonconformity;
- f. Transgender people who experience depression, suicidality, inclination to self-harm, or self-castration attempts due to the inadequacy of their gender dysphoria treatment are not evaluated or referred for additional care;
- g. Surgical evaluations and surgical treatment for gender dysphoria are subject to a blanket ban, regardless of need.

179. Countless transgender women in GDC custody, including Ms. Diamond, are subjected to the Hormones-Only Policy despite Defendants' knowledge from *Diamond I* that blanket restrictions on gender dysphoria care are unconstitutional and create a substantial risk of serious harm.

180. The Hormones-Only Policy has superseded GDC's written policies on the treatment of gender dysphoria, including the Gender Dysphoria Policy released following *Diamond I* that purports to provide "constitutionally appropriate"

treatment, according to “[c]urrent, accepted standards of care.” Gender Dysphoria Policy, SOP 507.04.68 (I), (IV).

181. Because the Hormones-Only Policy adopted by Defendants Ward, Lewis, J. Jackson, and Sauls bans all treatment beyond hormone therapy, regardless of need, the care offered to Ms. Diamond and others is so minimal that it amounts to no treatment at all. Further, the hormone therapy offered under the policy does not align with the Standards of Care because it is administered inconsistently, unmonitored, and frequently subject to delay.

**Defendants Continue to Refuse Ms. Diamond Gender Dysphoria Treatment Pursuant to a Blanket Policy**

182. Ms. Diamond’s hormone treatment has been discontinued for weeks at a time.

183. Ms. Diamond has not received regular bloodwork or monitoring to ensure the adequacy of her hormone levels. She has had endocrinologist appointments without the requisite blood work for the endocrinologist to adequately monitor her blood levels.

184. GDC has failed to provide Ms. Diamond with mental health counseling by practitioners minimally competent in treating gender dysphoria to monitor and

evaluate her treatment needs, which, in any event, require more than the provision of Sudoku puzzles.

185. Dr. Roth's attempts to provide Ms. Diamond a comprehensive plan for gender dysphoria treatment after meeting and evaluating her were rejected by Defendants Lewis and J. Jackson, who, despite never examining Ms. Diamond, must approve treatment plans for people diagnosed with gender dysphoria.

186. Dr. Fass also informed Ms. Diamond that he could not offer her more treatment beyond hormone therapy because everything was getting "shut down" by Defendant Lewis.

187. On or about September 10, 2020, Ms. Diamond met with Dr. Roth, Dr. Fass, and other GDC medical providers. They informed Ms. Diamond that their recommendations had been overruled by Defendant Lewis and that they were facing resistance from high-level officials like Defendants Ward, Lewis, and Toole.

188. Failing to provide Ms. Diamond the medically necessary treatments ~~discussed~~ above grossly deviates from the Standards of Care, which affioeorich anf(h )0.a i

access to the medically necessary treatment that manages her severe gender dysphoria.

190. Ms. Diamond has endured strict and medically harmful restrictions on her gender expression, including threats of forced haircuts and limited access to hair removal.

191. Ms. Diamond has also been refused treatments to remove her facial hair for weeks at a time, including access to razors or clippers for shaving, exacerbating her gender dysphoria to an intolerable level.

192. The denials of care began at GDCP and continued at Coastal at the direction of Defendant Lewis and through the actions and omissions of Defendants J. Jackson and Sauls.

193. Even though Defendants Lewis, J. Jackson, and Sauls each have the authority as well as the obligation to ensure that Ms. Diamond receives minimally adequate care for her gender dysphoria, they have wholly abdicated their job duties and refused to initiate necessary treatment, despite the known and obvious consequences of their actions.

194. Defendant Lewis has reviewed and personally rejected Ms. Diamond's urgent requests for care, including grievances addressing her unmet treatment needs,







2020, and November 6, 2020, five notified Defendants Ward, Lewis, J. Jackson, and Sauls of her severe unmet gender dysphoria healthcare needs.

202. Through Ms. Diamond's First Notice of Violations, dated May 1, 2020, Defendants Ward, Lewis, J. Jackson, and Sauls were informed that she was not receiving adequate treatment for her gender dysphoria, including consistent hormone therapy.

203. Through Ms. Diamond's Fourth Notice of Violations, dated July 2, 2020, Defendants Ward, Lewis, J. Jackson, and Sauls were informed that she had attempted to castrate herself due to her poorly managed gender dysphoria and had sustained serious injuries.

204. In follow up correspondence sent July 9, 2020, July 10, 2020, and July 16, 2020, Ms. Diamond notified Defendants Ward, Lewis, J. Jackson, and Sauls, through counsel, that she was experiencing acute medical issues as a result of her self-castration attempts—including severe pain, difficulty urinating, and kidney problems. She requested emergency medical treatment, as well as an opportunity to speak with GDC representatives about her ongoing gender dysphoria treatment needs, but her requests were denied.

205. Ms. Diamond's Fifth Notice of Violation, dated July 20, 2020, informed Defendants Ward, Lewis, J. Jackson, and Sauls that her mental and

physical health had continued to deteriorate due to gender dysphoria treatment that was grossly inadequate and relayed that GDC clinicians had determined she was at risk for kidney problems and lasting physical injury.

206. In the Sixth Notice of Violations, dated September 29, 2020, Ms. Diamond notified Defendants Ward, Lewis, J. Jackson, and Sauls, through counsel, that she was still not receiving adequate gender dysphoria care, which had led to rapidly deteriorating mental and physical health, including attempts at self-surgery.

207. In her Seventh Notice of Violations, dated October 23, 2020, Ms. Diamond notified Defendants Ward, Lewis, J. Jackson, and Sauls, through counsel, that the repeated sexual assaults she was experiencing were exacerbating her post-traumatic stress disorder and that her mental health was continuing to deteriorate.

208. In her Eighth Notice of Violations, dated November 2, 2020, and sent electronically to GDC general counsel, Ms. Diamond notified Defendants Ward, Lewis, J. Jackson, and Sauls, through counsel, of her suicide attempt.

209. In her Ninth Notice of Violations, dated November 6, 2020, sent electronically to GDC counsel, Ms. Diamond notified Defendants Ward, Lewis, J. Jackson, and Sauls, through counsel, that Ms. Diamond remained actively suicidal.

210. In addition, Ms. Diamond

213. Defendants Ward, Lewis, J. Jackson, and Sauls's steadfast refusal to provide Ms. Diamond medically and clinically appropriate treatment for her gender



217. The Transgender Management Policy also made Defendants Lewis, J. Jackson, Holt, Toole, and Atchison members of GDC’s Statewide Classification Committee in their official roles, and made them “responsible for making case-by-case decisions” about whether transgender people “will be housed in a male or female facility,” in consultation with prison wardens like Defendants Ford and Benton. Transgender Management Policy, SOP 220.09 (III)(J). The Policy also

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- c. Consider the housing placement of transgender individuals like Ms. Diamond on an individualized basis, 28 C.F.R. § 115.42(b);
  - d. Determine on a case-by-case basis whether placement in a male or female facility would best ensure Ms. Diamond’s health and safety, 28 C.F.R. § 115.42(c);
  - e. Give serious consideration to Ms. Diamond’s own views regarding safety, 28 C.F.R. § 115.42(e);
  - f. Review Ms. Diamond’s housing placements at least twice a year, or when issues arise, and to assess the need for adjustments, 28 C.F.R. § 115.42(d);
  - g. Provide Ms. Diamond “the opportunity to shower separately” from other incarcerated people. 28 C.F.R. § 115.42(f); and
  - h. Perform re-assessments within 30 days of her entry to custody, upon her transfer between facilities, and following every “incident of sexual abuse, or receipt of additional information that bears on [Ms. Diamond’s] risk of sexual victimization.” 28 C.F.R. § 115.41(f)–(g).





220. Ms. Diamond met with Defendant Atchison via videoconference several days later and reiterated her safety concerns. Ms. Diamond asked Defendant Atchison to assign her a placement in a female facility because of her ongoing risk of sexual assault.

221. GDC personnel classified Ms. Diamond as a PREA Victim following her re-entry using GDC's PREA Classification and Screening instrument and noted that Ms. Diamond was a transgender person with an exclusively non-violent criminal record, as well as a prior victim of sexual assault in prison who still felt vulnerable.

222. Between May 1, 2020, and November 6, 2020, Ms. Diamond, through **nine** written Notices of Violations, notified Defendants Ward, Lewis, J. Jackson, Holt, Toole, Sauls, Ford, Benton, and Atchison about the serial abuse she has been experiencing because of their actions and decisions.

223. Three of Ms. Diamond's Notices of Violations—dated May 1, 2020, May 20, 2020, and June 3, 2020—concerned attacks and abuse Ms. Diamond experienced at GDCP. The remaining six Notices of Violations—letters dated July 2, 2020, July 20, 2020, September 29, 2020, and October 23, 2020, and emails dated November 2, 2020, and November 6, 2020—concerned abuse and deprivations Ms. Diamond experienced at Coastal. Ms. Diamond also attached copies of her previous Notices of Violations as enclosures to all of her subsequent Notice letters.

224. Defendants Ward, Lewis, J. Jackson, Holt, Toole, Sauls, Benton, and Atchison received copies of all of Ms. Diamond's Notices of Violations concerning both GDCP and Coastal. Defendant Atchison received copies of each of Ms. Diamond's Notices of Violation because they were addressed to GDC's PREA Coordinator and/or the PREA Unit. Defendant J. Jackson received copies of all of Ms. Diamond's Notices of Violations because they were forwarded to her due to their subject matter. Finally, Defendant Ford received copies of all of Ms. Diamond's Notices of Violations concerning GDCP.

225. Notwithstanding this knowledge of ongoing and future risk,

knowledge of Ms. Diamond's health and safety needs, even when they petitioned for Ms. Diamond to be transferred from Coastal to a safer facility.

227. Dr. David Roth, a psychiatrist at Coastal and one of Ms. Diamond's treating providers, urged Defendants Lewis, J, Jackson, and others to transfer Ms. Diamond away from Coastal because of abuse she was experiencing as a transgender woman and the ongoing risks to her safety and health.

228. Dr. Roth noted that "although [Ms. Diamond] is making every effort to remain in population, she is chronically stressed, fearful, and anxious [at Coastal], and this setting actively triggers her PTSD."

229. Dr. Roth identified a number of other placements that would be more suitable for Ms. Diamond, including a GDC transition center or a Supportive Living Unit, because they would be "more therapeutic than general population in a given prison" and safer than the environment at Coastal, and attempted to initiate a transfer.

230. However, Dr. Roth's housing recommendations and his attempts to initiate a safety transfer were summarily blocked by Defendants Lewis, J. Jackson, and others, who took no further steps to reduce the ongoing serious risks to Ms. Diamond's safety and rejected her repeated requests for an opportunity to speak and identify additional safeguards to protect her from abuse.



women, are nonetheless placed in men's prisons based on the sex assigned to them at birth and refused placement in female facilities on a blanket basis, subject to few, if any, exceptions;

- b. The Statewide Classification Committee, including Defendants Lewis, J. Jackson, Holt, and Atchison, will assign transgender women to men's prisons even when they are eligible for placement in a female facility by GDC's own criteria; and
- c. Transgender women are placed in men's facilities without regard for the substantial and foreseeable harm they will face in men's prisons, and without reasonable safeguards to reduce their risk of sexual assault, abuse, and harassment.

235. Countless transgender women in GDC custody, including Ms. Diamond, are subjected to the De Facto Placement Ban as outlined above, despite Defendants' knowledge that the De Facto Placement Ban creates a substantial risk of serious harm.

236. As a consequence of the De Facto Placement Ban:

- a. Once placed in a men's prison, transgender women are often, if not always, relentless targets of sexual assault, abuse, and harassment;
- b. Sexual assaults against transgender women are often committed by incarcerated people affiliated with gangs who threaten to maim or kill their victims if they report the assaults, placing transgender women at substantial risk of harm or death whether or not they report the abuse;
- c. No reasonable measures are undertaken to respond to or mitigate the risks transgender women in men's prisons face;







has been sexually assaulted fourteen times since her October 2019 return to custody.

245. As previously described, between May 1, 2020, and November 6, 2020, Ms. Diamond notified Defendants Ward, Lewis, J. Jackson, Holt, Toole, Sauls, Ford, Benton, and Atchison of her experiences of abuse and assault through nine written Notices of Violations.

246. Because Ms. Diamond attached copies of her previous Notices of Violations as enclosures to all of her subsequent Notice letters, all Defendants were informed of previous incidents, except that Defendant Ford was informed of all incidents that occurred at GDCP. Defendant J. Jackson received all Notices when they were forwarded to her in her role as Director of Mental Health.

247. On October 31, 2020, via telephone, Ms. Diamond notified Defendants Ward, Lewis, J. Jackson, Holt, Toole, Sauls, Benton, and Atchison, through counsel, that she had suffered another attack during the night because her cell door does not lock properly and that she had become deeply suicidal.

248. Ms. Diamond also repeatedly informed Defendant Benton and his direct reports at Coastal that her cell door did not lock, making her even more vulnerable to attacks 0(vu)8.3t2i08.5(ta)12[(v)8.3t2i08.3( 101)3.6(n)8.2(a)12.1s.

door on multiple occasions, including in June 2020, when she first arrived at Coastal, and in September 2020.

249. Defendant Benton's direct reports and employees at Coastal dismissed her concerns, at one point stating simply that some cell doors work, and others do not. Ms. Diamond was also informed that Defendants Toole and Benton had set specific protocols for her cell to prevent the door from locking as it ordinarily should.

250. Ms. Diamond also discussed her history of assaults and ongoing safety concerns with mental health, medical, and PREA personnel who had a mandatory

253. Three of the perpetrators of her abuse and harassment—Nurse Lucas and Defendants A. Smith and R. Jackson—

256. Despite having incontrovertible knowledge of Ms. Diamond's ongoing assaults in custody, Defendants Ward, Lewis, J. Jackson, Holt, Toole, Ford, Benton, and Atchison have refused to take steps to reasonably safeguard her from continued

like Ms. Diamond were reasonably protected from sexual abuse at the hands of men at the facility. Defendant Benton has even refused Ms. Diamond's repeated requests to be moved out of the dormitory where she was assaulted to avoid further attacks.

259. As a result of Defendants Ward, Lewis, J. Jackson, Holt, Toole, Benton, and Atchison's actions and inactions in denying Ms. Diamond a safety transfer or other reasonable protection measures, Ms. Diamond has been assaulted at Coastal **eight** times in six months.

260. To date, Defendants Ward, Lewis, J. Jackson, Holt, Toole, Atchison, and Benton have not taken **any** reasonable steps to protect Ms. Diamond from sexual violence at Coastal or address the persistent risks to her safety.

261. Due to Defendants Ward, Lewis, J. Jackson, Holt, Toole, Atchison, and Benton's actions and omissions, Ms. Diamond remains to this day in a facility and dormitory where she has been repeatedly assaulted, alongside past assailants, continually living in fear of the next, inevitable sexual assault she will have to endure.



written policies required that GDC officials carefully consider the housing placements of transgender people and take steps to mitigate their risk of sexual victimization, up to and including placement in a female facility.

266. Contrary to the Eighth Amendment and contemporary standards of decency, Defendants Ward, Lewis, J. Jackson, Holt, Toole, Ford, Benton, Atchison, L. Smith, and R. Jackson showed deliberate indifference to Ms. Diamond's known and substantial risks of sexual assault by failing to take reasonable steps to protect her, despite having the authority to do so, even as she pleaded for safekeeping.

267. Each of the aforementioned Defendants directly participated in the Eighth Amendment violations alleged while acting under color of state law.

268. Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison showed deliberate indifference to Ms. Diamond's substantial risk of serious harm by, *inter alia*, participating in or ratifying the decision to exclusively place Ms. Diamond in male GDC facilities where she stood a heightened risk of sexual assault, even though there were female facilities that were a safe and appropriate alternative; failing to take reasonable steps to protect Ms. Diamond from sexual assault at the men's facilities where she was placed; and failing to take action or authorize safety transfers after receiving numerous reports that Ms. Diamond had been repeatedly sexually abused and assaulted as a result of their housing decisions.





incarcerated people; and by sexually harassing, denigrating, and demeaning Ms. Diamond for being transgender in a manner intended to, and that did, increase her already substantial risk of sexual assault at Coastal.

272. As a direct, proximate, and foreseeable consequence of Defendants Ward, Lewis, J. Jackson, Holt, Toole, Ford, Benton, Atchison, L. Smith, and R. Jackson's deliberate indifference, Ms. Diamond has been sexually assaulted and abused repeatedly. She also continues to face a substantial risk of assault and remains in constant fear for her safety.

273. Defendants' actions and omissions have caused Ms. Diamond irreparable physical injury and emotional harm, including worsening PTSD and suicidal ideation and suicide attempts.

274. Ms. Diamond seeks damages against Defendants Ward, Lewis, J. Jackson, Holt, Toole, Ford, Benton, Atchison, L. Smith, and R. Jackson in their individual capacities.

275. Ms. Diamond also seeks injunctive and declaratory relief against Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Benton in their official capacities because their flagrant constitutional violations will continue indefinitely, absent injunctive relief.

## COUNT II

### **Eighth Amendment Violation Under 42 U.S.C. § 1983—Sexual Abuse**

#### *For Damages Against Defendant Aretha Smith*

276. Ms. Diamond incorporates and realleges herein the foregoing paragraphs and asserts the following for all times relevant to this action:

277. The Eighth Amendment to the U.S. Constitution prohibits cruel and unusual punishment. Included in the prohibition against cruel and unusual punishment is sexual assault and abuse by corrections staff.

278. The Eighth Amendment also protects human dignity and therefore prohibits sexual abuse and harassment as conduct lacking any penological justification.

279. Defendant A. Smith, acting under color of state law, purposefully and knowingly used unjustifiable physical and coercive force in locking Ms. Diamond in a room on two occasions and engaging in sexual abuse, harassment

281. Instead, Defendant A. Smith's actions, which were severe, sadistic, and repeated, were taken in order to sexually abuse Ms. Diamond and to sexually arouse herself.

282. The sexual abuse committed by Defendant A. Smith against Ms. Diamond is objectively serious and deeply offensive to human dignity.

283. Defendant A. Smith's actions violate the contemporary standards of decency that mark the progress of a maturing society and were not, and could not have been, part of the penalty Ms. Diamond is required to pay for her offense.

284. As a direct and proximate result of Defendant A. Smith's sexual abuse and misconduct, Ms. Diamond suffered irreparable emotional harm.

285. Ms. Diamond is entitled to damages from Defendant A. Smith in her individual capacity.

### COUNT III

#### **Eighth Amendment Violation Under 42 U.S.C. § 1983—Policy, Pattern, or Custom**

#### ***For Declaratory and Injunctive Relief Against Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison***

286. Ms. Diamond incorporates and realleges herein the foregoing paragraphs and asserts the following for all times relevant to this action:

287. Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison knew that transgender women, including

291. By applying the De Facto Placement Ban to Ms. Diamond, Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison refused to meaningfully consider housing placement and safety transfer requests or to transfer Ms. Diamond and other transgender women to women's facilities even after notice of credible allegations of sexual assaults, threats, and foreseeable future risk.

292. The De Facto Placement Ban that Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison adopted and applied to Ms. Diamond displaces individualized risk assessments and judgment, supersedes other policies on the management, placement, and treatment of incarcerated transgender people, and has acquired the force of law.

293. By establishing, maintaining, and/or otherwise applying their De Facto Placement Ban to Ms. Diamond and other transgender women, Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison showed deliberate indifference to the substantial risk of serious harm these practices caused.

294. There is no penological basis to apply the De Facto Placement Ban to deny Ms. Diamond a transfer to a female facility, or to refuse to provide her with a non-segregated housing placement that adequately protects her from the heightened risk of sexual assault she faces as a transgender woman in men's prisons.

295. As a direct and proximate result of the De Facto Placement Ban that Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison ratified and applied to Ms. Diamond while acting under color of state law, Ms. Diamond has suffered and continues to suffer irreparable physical injury and emotional harm and will continue to be harmed absent prospective injunctive relief to abate the constitutional violation described herein.

296. Ms. Diamond seeks injunctive and declaratory relief against Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison in their official capacities to prevent the continued violation of her Eighth Amendment right to be free from cruel and unusual punishment.

#### **COUNT IV**

##### **Fourteenth Amendment Equal Protection Violation Under 42 U.S.C. § 1983**

##### ***For Declaratory and Injunctive Relief Against Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison***

297. Ms. Diamond incorporates and realleges herein the foregoing paragraphs and asserts the following for all times relevant to this action:

298. The Fourteenth Amendment's Equal Protection Clause provides: "No state shall make or enforce any law which shall abridge the privileges or immunities

of citizens of the United States . . . nor deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1.

299. Under the Equal Protection Clause of the Fourteenth Amendment, discrimination against transgender people is a form of sex discrimination that is presumptively unconstitutional and subject to heightened scrutiny.

300. Discrimination based on sex includes, but is not limited to, discrimination based on gender, gender nonconformity, transgender status, gender expression, and gender transition.

301. Discrimination based on transgender status is also presumptively unconstitutional under the Equal Protection Clause and subject to strict, or at least heightened, scrutiny.

302. Transgender people have suffered a long history of extreme discrimination in Georgia and across the country, in prisons and outside of prisons, and continue to suffer such discrimination to this day.

303. Many, if not most, transgender and cisgender women who are incarcerated, including Ms. Diamond, have discernable feminine characteristics and secondary female-typical sex characteristics that place them at heightened risk of sexual assault if placed in men’s prisons without adequate safeguards.

304. Both transgender and cisgender women face substantially similar risks of sexual victimization if housed in men's prisons without adequate safeguards.

305. Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison knew that Ms. Diamond faced a substantially similar risk of sexual assault when housed in men's prisons as a cisgender woman would face in men's prisons.

306. Disregarding these known safety risks, Defendants Ward, Lewis, J.  
s



309. Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison, acting under color of state law, intentionally discriminated against Ms. Diamond by placing her, and continuing to house her, exclusively in men's prisons without adequate safeguards, even though she faces similar risks as all other women in GDC custody.

310. Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison's actions as described herein were taken without an important or legitimate governmental interest or rational reason, and they had no penological basis to deny

Ms. Diamond ~~587 081013(i)8.4(m4p(e))h2eMTh5o(o 1factd2.3(i8.5(or)y(1 r)3.(l)8.5(og )8.4~~

**COUNT V**

discriminated against Ms. Diamond and similarly situated transgender women in GDC custody on the basis of transgender status while acting under color of state law.

317. As a direct and proximate result of Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison's application of the De Facto Placement Ban, Ms. Diamond has suffered and continues to suffer irreparable physical injury and emotional harm and will continue to be harmed absent prospective injunctive relief to abate the constitutional violation described herein.

318. Ms. Diamond seeks injunctive and declaratory relief against Defendants Ward, Lewis, J. Jackson, Holt, Toole, and Atchison in their official capacities to prevent their enforcement of the De Facto Placement Ban and the continued violation of her Fourteenth Amendment right to Equal Protection under Law.

## **COUNT VI**

### **Eighth Amendment Under 42 U.S.C. §**

320. Included in the prohibition against cruel and unusual punishment protected by the Eighth Amendment to the U.S. Constitution is the provision of adequate treatment for a serious medical need while in the custody of the State.

321. Defendants Lewis, J. Jackson, and Sauls knew that Ms. Diamond has gender dysphoria, a serious medical need requiring treatment to avert a serious risk of physical and psychological harm. Defendants also knew that the medically accepted standards for the treatment of gender

324. Despite this knowledge and Ms. Diamond's repeated requests for care, Defendants Lewis, J. Jackson, and Sauls refused to provide Ms. Diamond medically necessary treatment in deliberate indifference to her serious risk of harm, while acting under color of state law.

328. Defendant Lewis's actions were also wanton and malicious as they reflect a pattern of denying medically necessary care to people with gender dysphoria that began in *Diamond I* when she also served as Statewide Medical Director.

329. As a direct and proximate result of Defendants Lewis, J. Jackson, and Sauls's actions and omissions, Ms. Diamond

**COUNT VI**

**Eighth Amendment Under 42 U.S.C. § 1983—Policy, Custom, or Practice**

people with gender dysphoria, despite knowing that application of the custom, practice, and policy outlined above would harm patients suffering from gender dysphoria and that harm was likely to continue absent training.

337. The Hormones-Only Policy adopted by Defendants Ward, Lewis, J. Jackson, and Sauls falls below the minimum accepted Standards of Care and the overwhelming medical consensus that gender dysphoria treatment must be individualized and that medically necessary care requires treatment sufficient to alleviate symptoms such as depression, suicidality, and attempted self-castration.

338. The Hormones-Only Policy adopted by Defendants Ward, Lewis, J.



and will continue to be harmed absent prospective injunctive relief to abate the

that was likely to continue absent training, and GDC's own written policies concerning the healthcare and safety needs of transgender people.

344. As a direct and proximate result of Defendant Ward's failure to train his staff as described above, Ms. Diamond was sexually assaulted, abused, and harassed multiple times, by guards and incarcerated men, and denied medically necessary treatment.

345. Defendant Benton, who has final decision-making authority and responsibility for the training and supervision of all Coastal personnel, failed to train and supervise his staff despite knowing of a widespread and pervasive pattern of Coastal personnel disregarding the rampant sexual victimization experienced by transgender women at Coastal, that was likely to continue absent training, and GDC's own written policies concerning the safety needs of transgender people.

346. As a direct and proximate result of Defendant Benton's failure to train and supervise his staff as described above, including but not limited to his failures with respect to Defendant R. Jackson, Ms. Diamond was sexually assaulted and harassed multiple times by guards and incarcerated men.

347. Defendant Ford, who has final decision-making authority and

GDCP personnel disregarding the rampant sexual victimization experienced by transgender women at GDCP, that was likely to continue absent training, and GDC's own written policies concerning the safety needs of transgender people.

348. As a direct and proximate result of Defendant Ford's failure to train and supervise his staff at GDCP, to which Ms. Diamond may be transferred, as described above, including but not limited to his failures with respect to Defendants A. Smith and L. Smith and Nurse Lucas, Ms. Diamond was sexually assaulted, abused, and harassed multiple times by guards and incarcerated men.

349. Defendants Lewis, J. Jackson, and Sauls, who are final policy and decision-makers for GDC with respect to medical and mental health care, failed to prop

safe placements, delaying, deferring, or refusing to reassess the placements of transgender women when sexual assaults occur, and disregarding PREA and GDC's own policies aimed at protecting transgender people from violence.

351. As a direct and foreseeable consequence of Defendants Lewis, J. Jackson, and Sauls's conscious disregard of the obvious need to train personnel, Ms. Diamond and other transgender people have repeatedly been denied medically necessary care for their gender dysphoria and reasonable protection from foreseeable sexual assault across multiple GDC facilities, and repeatedly been subjected to physical injury and harm. Due to staff supervision and training failures, Ms. Diamond has been subjected to fourteen sexual assaults in the past year alone.

352. Defendants Ward, Lewis, J. Jackson, Sauls, Ford, and Benton's failure to train and supervise staff or take corrective action to disrupt this widespread pattern of abuse and harm violates the Eighth Amendment's prohibition on cruel and unusual punishment and fundamental notions of decency.

353. In addition to declaratory and injunctive relief, Ms. Diamond seeks damages from Defendants Ward, Lewis, J. Jackson, Sauls, Ford, and Benton in their individual capacities.

354. Ms. Diamond has suffered and continues to suffer irreparable physical injury and emotional harm as a result of Defendants Ward, Lewis, J. Jackson, Sauls,

Ford, and Benton's failure to supervise and train personnel, and will continue to

358. A declaratory judgment that the Hormones-



364. Nominal damages against each Defendant named in his or her individual capacity;

365. Punitive damages against each Defendant named in his or her individual capacity in an amount to be determined;

366. Reasonable attorney's fees and costs, including expert fees, under 42 U.S.C. § 1988; and

367. All other relief that the Court deems just and proper.

Dated: November 23, 2020

Respectfully submitted,



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