

**APPENDIX**

**PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT AND TO JOIN  
PLAINTIFFS**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
SAN ANGELO DIVISION**

K.C., on behalf of herself and all others  
similarly situated, *et al.*,

Plaintiffs,

v.

Cherie Townsend, in her official capacity as  
Executive Director of the Texas Youth  
Commission, *et al.*,

Defendants.

Civil No. 6:09-CV-012-C

Hon. Sam R. Cummings

**DECLARATION OF STUART GRASSIAN**

My name is Stuart Grassian, and I declare:

1. I am over the age of 18 and am competent to make this declaration. I provide this declaration based upon my personal knowledge. I would testify as to the facts in this declaration under oath if called upon to do so.

2. My name is Stuart Grassian. I am a Board-certified psychiatrist, licensed to practice medicine in the Commonwealth of Massachusetts, and was on the teaching staff of the Harvard Medical School continually from 1974 until 2002.

**Professional Experience**

3. I have had extensive experience in evaluating the psychiatric effects of stringent conditions of confinement, and have served as an expert in a number of both individual and class-action lawsuits addressing this issue. My observations and conclusions regarding the psychiatric effects of such confinement have been cited in a number of federal court decisions, for example: *Davenport v. DeRobertis*, 844 F.2d 1310 (7th Cir. 1988), and *Madrid v. Gomez*, 889 F. Supp. 1146 (N.D. Cal. 1995). I prepared a written declaration for *Madrid* describing the medical literature and historical experience concerning the psychiatric effects of restricted and isolated conditions of confinement as well as of other conditions of restricted environmental and social stimulation, and subsequently published the general (non-institution specific) and non-redacted (non-inmate specific) portions of that declaration as paper entitled *Psychiatric Effects of Solitary Confinement*, 22 Wash. U. J.L. & Pol'y (2006). This paper describes the extensive body of literature, including clinical and experimental literature, regarding the effects of decreased environmental and social stimulation, and more specifically, observations concerning the effects of segregated confinement on prisoners.

4. The second most important area of my forensic experience has been in evaluating the effects of various forms of sexual trauma. This has included testimony and research (the latter as Principal Investigator in a research project at Harvard Medical School/Beth Israel Hospital) regarding the effects of childhood sexual abuse, and substantial experience in evaluating the effects of other forms of sexual trauma.

5. In parallel with this work, I have evaluated and testified regarding the effects of strip search procedures in several individual cases in Massachusetts, as well as class-action lawsuits in Massachusetts and New York.

### **Circumstances of Involvement in This Case**

6. In the present case, I was retained by the ACLU and Dechert LLP to evaluate conditions at the Ron Jackson Juvenile Correctional Complex (“Brownwood”)—especially in regard to the use of solitary confinement (referred to there as “security housing”), strip search and related procedures, and concerns about the excessive use of force—and their effect upon the youths housed therein. For this purpose, I reviewed a number of pertinent documents produced by Defendants, and on July 20 and 21, 2009 I toured the Security Unit at the Brownwood facility and interviewed 12 teenage girls currently confined at Brownwood. I have been asked to prepare this declaration summarizing my primary observations and opinions based on my work so far in this litigation.

### **Observations and Opinions**

7. In my opinion, the Brownwood facility currently demonstrates grossly inadequate recognition of the potentially harmful effects of security housing. The facility does so with an almost total disregard of these youths’ past psychiatric histories, including but not limited to severe trauma, including sexual trauma.

8. The facility’s disregard of the psychiatric illnesses virtually universal among the girls confined at the facility blinds its staff to the complex origins of the behavioral difficulties experienced by these girls. As a result, staff recurrently act from one paradigm, and one paradigm alone—the paradigm that if you punish unwanted behavior harshly, over and over again, the behavior will eventually improve. This is a brutal and entirely counterproductive response, one that can only worsen the emotional state of the girls so treated and lead to an increasingly sadistic and overly controlling attitude by staff.

9. This is not to say that I have concluded that there are no helpful, sensitive staff at the facility. A few of the girls interviewed spoke of one or another staff member who was kind and trustworthy. But the overall tone, and the majority of interactions with staff, bespoke an excessive need for control, an excessive use of force, and a disregard and ignorance of the critical implications of the overwhelming psychiatric illness present at the facility.

10. These two major problems—the utter disregard of the psychiatric context, and the use of excessive and brutal force—are in fact extremely closely related. Any facility that deals with individuals manifesting disruptive behavior and psychiatric problems—whether a correctional facility or a psychiatric facility—must have a multidimensional, complex way of understanding behavior and its origins. When it only has a one-dimensional response—punishment quick and brutal and frequent—the only behavior which will improve is that which is rational, that which is based upon a rational calculus of reward and punishment. Such a one-dimensional paradigm might well be effective in dealing with emotionally cold, instrumental criminals—the “James Cagneys” of the system—but such individuals are in fact exceedingly uncommon. Most prisoners, virtually all psychiatric patients, and virtually all of the girls at the Brownwood facility, do not and cannot respond to such a rational calculus. Instead, their behavior is impulse-driven, chaotic, often out of their control as much as it is out of the control of the facility; simply punishing and punishing it is likely to make it worse. And meanwhile, the frustration and anger of the staff of such a facility will inevitably grow.

11. Every girl whom we interviewed manifested severe psychiatric illness and a staggering history of trauma. They came from broken homes, had endured alcoholism and drug abuse in their parents; they had suffered physical abuse, abandonment, and multiple episodes of sexual abuse and rape. Some had no family at all to return to. The psychiatric illness was striking—bipolar mood disorders and post traumatic stress disorder were most prevalent, and in most cases, were both present. These children had been and were being prescribed major psychiatric medications—antipsychotics, lithium, anticonvulsant mood stabilizers, antidepressants, sedatives, just about the full gamut of medications seen on an inpatient psychiatric unit. During the interviews, none of them was cold, unemotional, calculating. Each manifested emotional pain—often severe pain. Several cried during the interview. Indeed, the experience of interviewing these children was an emotionally exhausting one.

12. From those interviews, and from the brief conversations we were allowed to have with staff members of the facility, it became exceedingly clear that staff dealing with these children have virtually no knowledge of these psychiatric difficulties and traumatic histories, and that this vital information virtually never, in any manner, informs the decisions that are made in dealing with these children and their behavior while at the facility. Upon inquiry, the staff of the security unit were explicit in declaring that they had no knowledge of the psychiatric history of any of the children who were housed in security; indeed, they did not even have the master files of the children on hand. And when inquiry was made of the unit psychologist as to whether there was any concern that, as a result of history of trauma, some of these girls might suffer severe reactions to strip search or to solitary confinement, the casual response was that while they had no knowledge of any child’s psychiatric history, they were confident that at least 80 or 90 percent of the girls had a history of post traumatic stress disorder as a result of rape of sexual abuse, and that none of that made any difference anyway. Explicitly, the emotional background of the child was not relevant. If the procedure was to strip search, the girl was strip searched. If the policy was to isolate in security cells, that was what was done. Psychiatric history did not count, and anyway, it was unknown.

13. One of the girls we interviewed, one of the many who had experienced sexual trauma, refused to take off her underwear in security unless her door was closed or the staff member turned her head away, and when this request was refused, she was forced to remain in handcuffs.

14. Some of the referrals to security were a result of concern that the child might be “suicidal”. One youngster asked to speak with a counselor, saying that she did not feel “safe” in her room. Without even asking her what she meant by “safe”, staff referred her to security, where she was strip-searched and left in a barren cell with no one to talk with, nothing to distract her from her painful thoughts. Another wrote a letter to a friend, expressing only a passive suicidal wish, without any plan or thought that she would act on her wish that she was dead. Staff opened and read her letter, and instead of anyone trying to talk with her about her feelings, she was handcuffed and led away to security, where she was stripped and locked away in a barren cell with no one to talk with.

15. The facility uses the term “security room” to refer to cells in the Security Unit. The term is somewhat cynical. The “room” is among the smallest and most barren solitary confinement cells that I have ever observed during my over 25 years of experience with maximum security prisons. The Brownwood security cells are approximately 45 square feet in area, entirely composed of concrete and cinder block except for the usual stainless steel sink/toilet combination. The “bed” is a simply a concrete shelf, on which may be placed a “mattress” that is about 1 1/2 inches thick. There is a very narrow window slot in the back of the cell. There is absolutely nothing else in the cell at all. And there is no opportunity for any distraction. There is no television or radio. Books are not provided in security. Educational materials are not provided. The Bible, being a book, is not provided. Nothing at all is provided. Many of the girls described these cells as filthy, often coated with blood, urine, or feces. Several thought they had acquired Staph skin infections while housed in security.

16. The only diversion is the opportunity to be led out of one’s cell in the morning, handcuffed, to take a shower in a cage in the unit. The shower area was described as grimy and dirty, and there is a de facto penalty imposed for taking a shower—the blanket the girl had used the night before is taken away while she is in the shower, and it is not returned to her until nightfall. Some girls refused to take a shower because the cell was too cold and they felt they needed the blanket more than they needed to shower.

17. When we toured the unit in the afternoon, we found several girls lying on the floor of their cell, covered with a blanket and trying to sleep away the time. Many of the girls we interviewed said that they had coped in a similar fashion—just trying to sleep away the misery and the endless time with nothing to do.

18. Girls on “suicide alert” (SA) in security experience additional burdens. After they remove all their clothes and underwear, they are required to wear only a

“barrel” garment fastened together with velcro. The velcro tabs are worn and old, and can easily become unfastened, especially during any restraint maneuver. Thus girls on SA status are often rendered naked in front of male as well as female staff.

19. Current procedures for transporting girls to security can also trigger traumatic memories and images—memories of being grabbed, restrained, helpless and overpowered. Girls who are being compliant with staff are still handcuffed. Girls who ask to be able to walk to the security unit are still put into a van. Girls who have a history of sexual trauma sometimes ask that the male guards not grab their shoulders while accompanying them, but such requests are routinely refused.

20. Thus, in short, when a youth has a history of severe sexual abuse and reveals that pain—even a wish to die—the response generally is to restrain her, handcuff her, transport her by van to the security unit, where she is left half naked in a small barren, filthy, concrete cell, with absolutely nothing to distract her from her thoughts and memories.

21. There were many complaints about the unavailability of the psychiatrist and the difficulty of having medications reviewed. One girl stated that she had asked to see the psychiatrist beginning in January 2009, and her caseworker told her that she had indeed put in those requests. But as of our visit in July she still had not been seen. Another, who had refused her medication because of severe side effects, was told that she now is no longer eligible to see the psychiatrist.

22. The issue of appropriate medication management is inextricably bound up with the behavioral and disciplinary issues these girls face at Brownwood. Their psychiatric diagnoses—bipolar mood disorder, post traumatic stress disorder, attention deficit hyperactivity disorder—all are associated with excessive impulsivity and impaired behavioral control. Brownwood’s failure to properly address these medication issues is a set-up, increasing the girls’ impulsivity and the likelihood of misbehavior and punishment.

23. One of the girls interviewed described this problem. She refused a calming medication that was too sedating and was dispensed much too early in the day. Memories of her abuse oppressed her, but she had no one to talk with about them; she had not even seen her caseworker for months, and her privilege level was not high enough to allow her even to write about her feelings in a journal. So all the tension just built up, not dissipated by meds or by talking. The tension would mount until it would explode out, then she would lose privileges and not be able to progress to a higher privilege level. She felt utterly trapped and helpless.

24. The girls we interviewed described multiple incidents involving an excessive use of force by staff, as well as an exceedingly punitive response to even minor deviations from the rules. (This, again, is not to say that these girls were unable to find some examples of compassionate, respectful responses by some staff; however, such examples were decidedly in the minority.)

25. The interviews, as well as the document review, reveal an attitude of control for control's sake, even for trivial matters. For example, in late June 2009, one girl had a sock stolen by another. She asked a staff member if she could have another to replace it. Without reason or explanation, the staff member refused and then insisted that she put on her shoes without a sock for one of her feet. She objected, and asked why she then at least could not wear slides, which would not be so uncomfortable to wear without socks. As a result of this "resistance to authority," she was restrained, handcuffed, and sent to security to be isolated.

26. In May 2009, one girl failed to respond to a demand to remove the covers over her head. It was the middle of the night and she was asleep, so she had not heard the demand. There was no conversation; staff stormed into her room, pulled her forcefully from her bed, held her down, handcuffed her and sent her off to solitary.

27. A particularly intellectually curious and physically unaggressive youngster, while standing in line in late May 2009, mentioned something innocuous and interesting about DNA to a staff member near her. Another staff person farther down the line—apparently more rigid about no talking in line—responded by ordering that she be sent to security. When the girl asked why she was being sent to security for this, staff rushed her, threw her to the ground, and handcuffed her. She was thrown so forcefully to the ground that her chin smashed against the floor, causing a large laceration that bled profusely

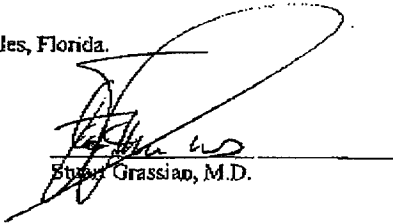
28. Another child had a long-standing phobia of heights, but despite this attempted to do a rope course, which would require her to slide down on a zip-line from a significant height. She panicked at the top and froze. The staff response was to threaten her with "escape" (a meaningless idea with her frozen at the top of this rope course) and then to punish her with 30 days restriction.

29. Many of the interviewees described the dilemma of living in an environment in which many of the rules are capricious and arbitrary, and in which different staff at different times respond in different ways to minor issues. There is an arbitrariness about it which leaves the youths feeling powerless and unsafe. Several also expressed a fear that doing anything to protest unfair treatment—filing a grievance, even speaking with the attorneys in this case—is likely to result in unfair harassment. One girl filed a grievance against a particular male staff member, only to have him read her grievance out loud to the whole dorm, intimidating and scaring her.

30. There is a policy that after a girl is referred to security she will be screened by a psychologist to ensure that there is no contraindication to security housing. But I could not find a single document in which such a contraindication was found to exist. And this is not surprising—there are no criteria of what might constitute a contraindication, and the psychologist doing the assessment appears to have no information whatsoever regarding the child's psychiatric history.

31. I declare under penalty of perjury under the laws of the United States of America and the laws of the state of Texas that the foregoing is true and correct to the best of my knowledge.

Signed August 18, 2009, in Coral Gables, Florida.

  
Susan Grassian, M.D.



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
SAN ANGELO DIVISION**

K.C., on behalf of herself and all others  
similarly situated, *et al.*,

Plaintiffs,

v.

Cherie Townsend, in her official capacity as  
Executive Director of the Texas Youth  
Commission, *et al.*,

Defendants.

Civil No. 6:09-CV-012-C

Hon. Sam R. Cummings

**DECLARATION OF ANNE M. NELSEN**

My name is Anne M. Nelsen, and I declare:

1. I am over the age of 18 and am competent to make this declaration. I provide this declaration based upon my personal knowledge. I would testify as to the facts in this declaration under oath if called upon to do so.

2. I am qualified to make this declaration based on my experience of over thirty years working in the juvenile justice field, including operating juvenile correctional facilities in the State of Utah and consulting with numerous states and jurisdictions, including as an expert witness.

3. I have been retained by the ACLU and by Dechert LLP to evaluate conditions related to secure confinement, use of force, and body searches at the Ron Jackson Juvenile Correctional Complex ("Brownwood") in Brownwood, Texas. This Declaration is provided in advance of the expert witness report that I will be preparing in this matter.

4. In making this declaration I have reviewed documents provided by the Defendants including copies of files of named Plaintiffs, copies of Texas Youth Commission

(“TYC”) General Administrative Policies (“GAP”), copies of forms used for documents within TYC institutions and specifically Brownwood, copies of TYC training modules, copies of Plaintiff grievances, copies of statistical information regarding the use of force, use of mechanical restraints and use of pepper spray at Brownwood, and the deposition and accompanying affidavits of Thomas Adamski. Additionally, this declaration is based on interviews with twelve residents at Brownwood conducted on July 20 and 21, 2009. Finally, this declaration is based on a formal tour provided of the security building at Brownwood on July 20, 2009. No staff members were made available to be interviewed to verify or refute statements made by the residents interviewed.

5. Residents that I interviewed at Brownwood were able to relay a range of mental health diagnoses that each girl reported to have received at some time during her stay at Brownwood. In addition, most of the interviewees provided verbal lists of psychotropic medications that she had been prescribed while at Brownwood. Most interviewees relayed histories of sexual and physical abuse and other trauma that lead to anti-social behaviors, ungovernability or running away from home, and substance abuse or self-medicating. Copies of Plaintiffs’ files substantiated those descriptions through psychiatric or psychological evaluations. However, those files do not offer any indication that mental health diagnoses have been communicated to the line staff or security staff who work with the girls on a daily basis. Despite their ubiquitous mental health problems, interviewees reported that they do not trust most if any staff, that they do not feel safe with most staff, that they do not have any staff members whom they feel comfortable talking to about their problems, and that they do not have positive relationships with staff at Brownwood.

6. Despite the importance to adolescent females of having positive, healthy relationships with trusted adults—particularly adolescent females who have experienced physical, sexual or emotional trauma—the residents that I interviewed reported having had frequent changes of case workers, therapists and other significant care givers. That practice has aggravated these girls’ fears and distrust of staff and will weaken their potential for succeeding upon return to the community.

7. Interviewees relayed having experienced periods of depression while at Brownwood. Most interviewees describe having been referred to the security unit for suicide alert (“SA”) and records reviewed verified that practice at Brownwood. The standard practice of placing residents, including those on SA, in security (even if referred but not admitted) involves confinement in a small room with a concrete bed and an institutional sink/commode with a thin mattress but no blanket or pillow. A resident on SA is also required to change into protective clothing, regardless of whether she has made a suicidal gesture. Residents on SA reported that in the past they were required to be strip searched but that that requirement recently (“about two weeks ago”, prior to our visit) was replaced with the requirement that they remove their regular clothing along with their bras and change into a suicide “barrel”, a padded dress with openings for the head and arms. We did not receive any written documentation of the change from the former strip search requirement. Although they are reportedly no longer required to be strip searched, interviewees described the current requirement as degrading as well. And they reported that they are kept in mechanical restraints until they voluntarily change their clothes; in some cases, physical restraint is used by staff when residents refuse to cooperate and change clothes. Again, interviewees expressed that being kept in mechanical restraints or having force

used is demeaning. Some interviewees reported that such practices revive memories of being abused in the past.

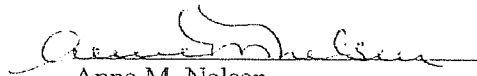
8. Isolating a child who is depressed or may be suicidal or self-destructive is not considered an effective intervention. TYC Suicide Training information discusses high-risk behaviors. Isolation of a potentially suicidal youth can aggravate at least two of these factors (“feelings of alienation or isolation” and “feelings of loss and separation”). The suicide training materials do not discuss the importance of developing a positive, trusting relationship with a caring adult as a way to address suicidal thoughts, gestures and attempts. A healthy relationship with a trusted adult is considered a more beneficial approach in suicide prevention than confinement and isolation. None of the interviews or documents discussed such relationship development at Brownwood. Not only are girls dealt with in an unprofessional and counter-productive manner through placement in the security unit for SA, that practice contradicts TYC’s own suicide training module.

9. Residents at Brownwood are transferred to the security unit for a variety of rule violations and, by policy, may be admitted subsequent to a Level III hearing. There are five criteria for admission to the security unit listed in GAP 97.40 (Security Program): “1) youth is a serious and continuing escape risk; 2) youth is a serious and immediate danger to others and staff cannot protect them except by admitting the youth to security program; 3) the confinement is necessary to prevent imminent and substantial destruction of property; 4) the confinement is necessary to control behavior that disrupts programming to the extent that the current program cannot continue except by admitting the youth to the security program; or 5) the youth is likely to interfere with a pending or ongoing investigation or a requested or scheduled due process hearing.” Despite those criteria, record reviews and interviews illustrated girls are most

frequently referred and admitted to security for such reasons as “disrupting the program” or “failing to follow staff instructions”. Resident interviews also said that they were referred to security for such reasons as “being depressed”, “resisting staff trying to restrain. . .because it brought back flashbacks of childhood abuse by dad”, “refusing to communicate when requested”, “talking to staff”, “talking during movement”, “talking in the café”, “threatening self-harm”, “wanting to hurt herself”, “talking”, “disrespecting staff”, “sleeping with head covered”, “freeing crickets to the outdoors”, “asking to speak to a counselor”, “cutting self”, “requesting another piece of bread in the café”, “resisting staff and sitting on the ground until pepper sprayed”, “talking in the infirmary”, “refusing to take meds”, “wearing my hair in a bun rather than a ponytail”, “saying I don’t feel comfortable in my room” and “saying I do not feel safe in my room”. Incident reports offer little detail regarding the most common reason for referral to security: disruption of program. Based on my review of documents and interviews with residents at Brownwood, I must conclude that referrals and admissions to the security unit are excessive in frequency and duration, with nebulous or ambiguous explanations and that other, less restrictive or punitive interventions not used effectively.

10. I declare under penalty of perjury under the laws of the United States of America and the laws of the state of Texas that the foregoing is true and correct to the best of my knowledge.

Signed Amy S., 2009, in Salt Lake City, Utah.

  
Anne M. Nelsen

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
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K.C., on behalf of herself and all others  
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Defendants.

Civil No. 6:09-CV-012-C

Hon. Sam R. Cummings

**DECLARATION OF** Identifying Information Redacted  
Pursuant to Protective Order

My name is \_\_\_\_\_ and I declare:

1. I am competent to make this declaration. I provide this declaration based upon my personal knowledge. I would testify as to the facts in this declaration under oath if called upon to do so.

2. I am 19 years old. I currently reside at the Ron Jackson State Juvenile Correctional Complex in Brownwood, Texas (“Brownwood”), which is run by the Texas Youth Commission (“TYC”). I was admitted to this facility in about October 2006.

3. The ACLU and Dechert LLP are acting as my personal representatives in connection with a lawsuit against TYC. I have signed a document authorizing the release of my medical records and any documents in the TYC’s possession to my representatives to assist in preparing this case.

4. I submitted a grievance to the authorities at TYC based on an experience I had when being sent to security on a self-referral around January 2009 and then being strip searched. The appeal of that grievance is in process. I understand that once the grievance process is completed, I am eligible to join this lawsuit as a plaintiff. It is my

plan to seek permission from the Court, through my attorneys, to join this lawsuit if and when my administrative remedies have been exhausted.

5. I was a TYC Youth Ombudsman. I was selected for this position by someone in the TYC office of independent ombudsman. My job was to help file grievances for girls who think their rights have been violated. I was recently removed from this position two weeks ago; however I am not very clear as to the reason. I do feel that the staff and administration is retaliating against me lately for my participation with this lawsuit.

6. I have only been sent to security a handful of times in the three years I have been at Brownwood. At least half of these were self-referrals, when I feel like I need to be alone and gather my thoughts. I don't feel safe in security, but there is nowhere else to go. Once when I self-referred to security, I got caught with candy and was strip-searched. This brought back bad memories of things that happened to me when I was little. I was admitted to security just because I had candy. TYC is relying on security to control kids who do even minor things wrong.

7. My longest stay in security was 24 hours after an incident where staff read my mail and then I got put on suicide alert as a result. I was there in isolation for the whole 24 hours until a psychologist came the next day and determined that I should not be on suicide alert. This whole incident made me feel mistreated and powerless because I could not do anything to defend myself.

8. Every time you get sent to security you are cuffed by the guards and put in a van, even if you don't resist. Regardless of whether you are admitted or have tried to harm yourself, when you get to security you still have to remove your bra and underwear in front of whoever is standing there. I feel uneasy in security and it is nasty and dirty—there is pee all over the walls.

9. I declare under penalty of perjury under the laws of the United States of America and the laws of the state of Texas that the foregoing is true and correct to the best of my knowledge.

Signed Judy Hilt, 2009, in Brownwood, Texas.

Identifying Information Redacted  
Pursuant to Protective Order \_\_\_\_\_



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**DECLARATION OF**

Identifying Information Redacted  
Pursuant to Protective Order

My name is \_\_\_\_\_, and I declare:

1. I am competent to make this declaration. I provide this declaration based upon my personal knowledge. I would testify as to the facts in this declaration under oath if called upon to do so.

2. I am 19 years old. I currently reside at the Ron Jackson State Juvenile Correctional Complex in Brownwood, Texas ("Brownwood"), which is run by the Texas Youth Commission ("TYC"). I was admitted to this facility sometime in 2006.

3. The ACLU and Dechert LLP are acting as my personal representatives in connection with a lawsuit against TYC. I have signed a document authorizing the release of my medical records and any documents in the TYC's possession to my representatives to assist in preparing this case.

4. I submitted a grievance to the authorities at TYC based on experiences I've had being sent to security. The appeal of that grievance is in process. I understand that once the grievance process is completed, I am eligible to join this lawsuit as a plaintiff. It is my plan to seek permission from the Court, through my attorneys, to join this lawsuit if and when my administrative remedies have been exhausted.

5. I have been a TYC Youth Ombudsman for about 8 months. I was selected for this position by Shalonda Grant in the TYC office of independent ombudsman. My job is to help file grievances for girls who think their rights have been violated. I was recently removed from this position last week due to false accusations by staff about my behavior. Since participating in this lawsuit, the staff has started taunting me, calling me names such as “jail house lawyer” and refusing to allow me to report my concerns on the hotline or contact my attorneys.

6. Not including self-referrals, I’ve been sent to security about 6 or 7 times in the approximately three years that I’ve been at Brownwood. My longest stay there was 24 hours. I’ve been sent for cussing at staff. I was sent once for trying to make a hotline call about staff pushing the door in my face. Another time I self-referred because I was upset about family problems, but they sent me over on a disruption charge.

7. In May 2009 I was sent to security for sleeping with the covers over my head. They said I didn’t follow instructions to remove the covers, but I was asleep and don’t remember being asked. It was after 10:00 p.m. and I had taken my meds, which make me sleepy. I was pulled from the bed and got a big bruise on my leg from being restrained. I asked the officers to take a picture of the bruise, but they refused. After they took me away I think they went through my room because I can’t find a lot of my paperwork now.

8. Lots of security referrals are totally uncalled for. Lately there has been a string of violent restraints at Brownwood. Using pepper spray is harmful and being around it with my asthma makes me sick and I start to choke. I have never been pepper sprayed, specifically, but I have been around when they are pepper spraying someone else, which caused me to become sick and dizzy.

9. Every time you get sent to security you are cuffed by the officers and put in a van. Regardless of whether you are admitted or have tried to harm yourself, when you get to security you still have to remove your bra and underwear in front of whoever is standing there. This feels like a strip search. Also, the rooms in security are filthy and make people sick.

10. I declare under penalty of perjury under the laws of the United States of America and the laws of the state of Texas that the foregoing is true and correct to the best of my knowledge.

Signed July 20<sup>th</sup>, 2009, in Brownwood, Texas.

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Pursuant to Protective Order

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My name is \_\_\_\_\_, and I declare:

1. I am competent to make this declaration. I provide this declaration based upon my personal knowledge. I would testify as to the facts in this declaration under oath if called upon to do so.

2. I am 18 years old. I currently reside at the Ron Jackson State Juvenile Correctional Complex in Brownwood, Texas ("Brownwood"), which is run by the Texas Youth Commission ("TYC"). I was admitted to this facility on May 16, 2007.

3. The ACLU and Dechert LLP are acting as my personal representatives in connection with a lawsuit against TYC. I have signed a document authorizing the release of my medical records and any documents in the TYC's possession to my representatives to assist in preparing this case.

4. During my two years at this facility, I have been sent to security only about 8 times, and have never stayed for more than 24 hours. About 3 of those referrals were self-referrals, which I put in as a last resort to find someone to talk to.

5. On around May 30, 2009, I was discussing DNA with staff standing in the line to go into the café. I wasn't threatening anyone or talking loudly. Ms. Vargas shouted down the line to Mr. Vargas saying he should take me to security. When I asked why I was being sent to security, Mr. Vargas threatened me with pepper spray. Then he slammed me to the ground so that my head slid under the stainless steel café line. I split my chin on the tile. There was a huge puddle of blood on the floor. My glasses also cracked in half when I hit the floor. Later, I almost passed out in the infirmary. They had to glue the cut on my chin closed with a sterile strip. After that incident, I stayed in security for 22 hours. During that time I was bleeding a lot. I never saw the incident report from this referral, and as far as I know no staff were ever disciplined for what they did to me. The security caseworker said that someone wrote a suicide alert (SA) pink slip on me saying that I was referred because I was trying to injure myself by shoving food down my throat. This never happened and I think it was done just to insure that I was kept in security overnight.

6. On June 5, 2009, I asked to talk to a counselor or a staff member that I could trust. I'm not very good at expressing my feelings, so this was a big effort for me. I was sitting on a light post outside when I was supposed to be moving with the group inside. Ms. Matlock was standing there and saw me sitting on the light post, and she radioed security staff to come and get me and take me to security. Ms. Matta

and Mr. Lancaster responded within a minute. When they got to me they didn't say a word to me, but just grabbed me and pulled my arms up behind my back and threw me on the dirt face first. They didn't ask if I would walk with them to security or do anything else to get my compliance. When they yanked my arms my shoulder felt like it popped out of its socket and went back in. The force of impact caused my collarbone to swell up, and it is still swollen to this day; my chin also busted open again and I started bleeding again. After all this happened, still no one would talk to me. They sent me to security for 23-24 hours after this incident. The next day they took me to the hospital to make sure my collarbone wasn't broken. I never saw the incident report from this referral, and as far as I know no staff were ever disciplined for what they did to me.

7. I can't stand going to security. The cells are filthy. It is dehumanizing to have to sit in a dirty room half-naked staring at the walls. I also hate going for dumb reasons that are not my fault. It's detrimental.

8. I have never assaulted staff. Several times I've been sent to security because I find crickets and insects inside the buildings and put them outside to save them. Once I went a whole year without going to security even one time.

9. About a year ago I was selected to be a TYC Youth Ombudsman by Shalonda Grant in the office of independent ombudsman. I was selected because I've been here a long time and stay out of trouble and am considered trustworthy.

I declare under penalty of perjury under the laws of the United States of America and the laws of the state of Texas that the foregoing is true and correct to the best of my knowledge.

Signed July 21<sup>st</sup>, 2009, in Brownwood, Texas.

Identifying Information Redacted  
Pursuant to Protective Order

Print Name

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
SAN ANGELO DIVISION

K.C., on behalf of herself and all others  
similarly situated, *et al.*,

Plaintiffs,

v.

Cherie Townsend, in her official capacity as  
Executive Director of the Texas Youth  
Commission, *et al.*,

Defendants.

Civil No. 6:09-CV-012-C

Hon. Sam R. Cummings

**DECLARATION OF** Identifying Information Redacted  
Pursuant to Protective Order

My name is \_\_\_\_\_ and I declare:

1. I am competent to make this declaration. I provide this declaration based upon my personal knowledge. I would testify as to the facts in this declaration under oath if called upon to do so.

2. I am 17 years old. I currently reside at the Ron Jackson State Juvenile Correctional Complex in Brownwood, Texas ("Brownwood"), which is run by the Texas Youth Commission ("TYC"). I've been in the TYC system since 2006, and here in Brownwood for periods during 2007 and 2008. I was re-admitted to this facility in January 2009.

3. The ACLU and Dechert LLP are acting as my personal representatives in connection with a lawsuit against TYC. I have signed a document, along with my parent or legal guardian, authorizing the release of my



medical records and any documents in the TYC's possession to my representatives to assist in preparing this case.

4. I submitted a grievance to the authorities at TYC based on my experience of being referred and admitted to security at Brownwood. I understand that once the grievance process is completed, I am eligible to join this lawsuit as a plaintiff. It is my plan to seek permission from the Court, through my attorneys, to join this lawsuit if and when my administrative remedies have been exhausted.

5. Since returning to Brownwood this January, I've been referred to security many times and was admitted about half of those times. The longest time I've stayed in security since January is about 5 days.

6. Lots of times I am referred for stupid things and it makes me so angry that I resist and end up getting forcibly restrained and referred for something more serious. Once I was referred to security for talking in line while marching back to the dorms. When they told me I was being shipped, it made me so angry I took off and ran around campus. Every time you get sent to security you are cuffed by the officers and put in a van, even if you don't resist.

7. A few weeks ago, I was sent to security in the morning for refusing to make my bed. When I got there, I refused to change over and give them my underwear. So they left me in the cell in handcuffs for about an hour. Eventually I said I would remove my underwear. Ms. Matta came and took off my handcuffs, but then she stood in the doorway watching me. This made me uncomfortable and I asked her not to watch, but she wouldn't look away. When I still refused to change over, she started trying to put the cuffs back on me and I resisted. Another staff

came in and both of them tried to restrain me. Eventually, Mr. Clemons came and calmed me down. Another staff member agreed to shut my door while I removed my underwear. After she did that, I changed over and they took the cuffs off. I ended up staying in security for the rest of the day. I remember thinking during this whole day that it was ridiculous that all this was happening just because I didn't want to make my bed that day.

8. Rooms are nasty in security and don't get cleaned daily. The walls and floors are sometimes covered with blood and feces. When I'm over there I just sit in the cell all day. There's no reading materials if you are just there for a few days—only program girls get books. Unless you say that you want to hurt yourself and get put on SA, no one comes to talk to you. There's nothing to do and there's nothing in the room but the toilet. We even have to ask for toilet tissue. They bring your food to the cell and you have to eat in your room. You don't always get to go out and exercise unless you're on program. The teacher in the security building does not come around to help everyone with their lessons. I've been there many times during the school day and I'm not doing any schoolwork when I'm there. In the morning, they come to take you to shower. They put you in handcuffs and take you to the shower, and while you're gone they take your blanket, so when you come back you don't have a cover. Sometimes girls don't want to take a shower because they feel cold without a blanket when they come back.

I declare under penalty of perjury under the laws of the United States of America and the laws of the state of Texas that the foregoing is true and correct to the best of my knowledge.

Signed July 21st, 2009, in Brownwood, Texas.

Identifying Information Redacted  
Pursuant to Protective Order

Print Name: \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
SAN ANGELO DIVISION

K.C., on behalf of herself and all others  
similarly situated, *et al.*,

Plaintiffs,

v.

Cherie Townsend, in her official capacity as  
Executive Director of the Texas Youth  
Commission, *et al.*,

Defendants.

Civil No. 6:09-CV-012-C

Hon. Sam R. Cummings

**DECLARATION OF** Identifying Information Redacted  
Pursuant to Protective Order

My name is \_\_\_\_\_ and I declare:

1. I am competent to make this declaration. I provide this declaration based upon my personal knowledge. I would testify as to the facts in this declaration under oath if called upon to do so.

2. I am 17 years old. I currently reside at the Ron Jackson State Juvenile Correctional Complex in Brownwood, Texas (“Brownwood”), which is run by the Texas Youth Commission (“TYC”). I was admitted to this facility on December 2, 2008.

3. The ACLU and Dechert LLP are acting as my personal representatives in connection with a lawsuit against TYC. Along with my legal guardian, I have signed a document authorizing the release of my medical records and any documents in TYC’s possession to my representatives to assist in preparing this case.

4. I submitted a grievance to the authorities at TYC based on my experience being referred and admitted to security at Brownwood. The appeal of that grievance is in process. I understand that once the grievance process is completed, I am eligible to join this lawsuit as a plaintiff. It is my plan to seek permission from the Court, through my attorneys, to join this lawsuit if and when my administrative remedies have been exhausted.

5. Since I've been at this facility, I've been referred to security about 15 times; about half of those times I was admitted. My longest stay on security was 3 days.

6. The very first time I was sent to security it was for saying that I did not feel safe in my room and that I wanted to speak to someone like a counselor. Instead of talking to me or helping me, they referred me to security on suicide alert (SA) and I was put in a room by myself, which is exactly what I didn't want. Getting sent to security did not help at all and made me very angry. I had to stay there for 24 hours and wait for the psychiatrist to come and speak to me. Once she saw me she took me off of SA.

7. Lots of times they refer girls to security for stupid reasons. Like one time I was referred because my hair was not in a regular ponytail with the hair loose but tied up in a bun. Mr. Coates told me that my hairstyle violated the rules and he sent me to security. I was complying and on my way to security when he restrained me. Regardless of whether you resist, every time you are shipped to security you are handcuffed and put in a van.

8. Around the end of January or early February 2009, I was sent to security because I got on top of the roof with some other girls. I was in security on IDP for 3 days after that. When they first put me in there, I was not on SA. But being in there makes me crazy and made me want to hurt myself. Pretty soon after getting in there I tried to choke myself with the string from a medical gown. Other girls were banging on their doors because I got quiet and did not respond, so they knew I was in trouble. Even so, no staff came for about 15 minutes. After that they put me on SA. It seems like every time you reach out for help they put you on SA.

9. During those 3 days on IDP and SA I just slept. I didn't even want to eat because that would mean waking up and dealing with how awful it is in there. There is nothing to do. I asked for a book, but they said you can't get a book unless you're on RDP. I asked for a Bible, and they said no, that's a book. They don't clean the rooms, there's blood on the walls, and it smells bad. The shower is nasty—it's a black cage with just a trickle of water. My face breaks out badly when I go to security. Once I think I got a staph infection from being in there. It's also really cold in security and they take away your blanket during the day. Those gowns they give you on SA don't cover anything. I have seen girls who get restrained in their SA gowns, and the gowns just fall off. Any male staff in security can just see them naked being restrained.

10. One time I wrote a grievance about Mr. Clemons. He announced, in front of all the other girls in the dorm, everything I said in the grievance. That's one reason I don't like writing grievances—because I don't want the staff to retaliate.

I declare under penalty of perjury under the laws of the United States of America and the laws of the state of Texas that the foregoing is true and correct to the best of my knowledge.

Signed JULY 21, 2009, in Brownwood, Texas.

Identifying Information Redacted  
Pursuant to Protective Order

Print Name:

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
SAN ANGELO DIVISION

K.C., on behalf of herself and all others  
similarly situated, *et al.*,

Plaintiffs,

v.

Cherie Townsend, in her official capacity as  
Executive Director of the Texas Youth  
Commission, *et al.*,

Defendants.

Civil No. 6:09-CV-012-C

Hon. Sam R. Cummings

**DECLARATION OF** Identifying Information Redacted  
Pursuant to Protective Order

My name is \_\_\_\_\_ and I declare:

1. I am competent to make this declaration. I provide this declaration based upon my personal knowledge. I would testify as to the facts in this declaration under oath if called upon to do so.

2. I am 17 years old. I currently reside at the Ron Jackson State Juvenile Correctional Complex in Brownwood, Texas ("Brownwood"), which is run by the Texas Youth Commission ("TYC"). I was admitted to this facility in August 2007.

3. The ACLU and Dechert LLP are acting as my personal representatives in connection with a lawsuit against TYC. I have signed a document, along with my legal guardian, authorizing the release of my medical records and any documents in the TYC's possession to my representatives to assist in preparing this case.



4. During my time at Brownwood, I have been referred to security over 200 times, and admitted over 100 times. The longest time I've spent in security was 3-4 months on the Behavioral Management Program (BMP) in 2007 or 2008. More recently, I was on Redirect (RDP) for about 4 weeks, which ended on April 20, 2009. During the days, when I was on RDP, I just read and sat around all day. Most of the girls in security are on meds and just sleep all day.

5. I was sent to security on June 28, 2009 on a charge of having contraband. The "contraband" was my medication dosage for that morning, which I did not take because I was saving it to take it after activities. My meds make me really sleepy and if I take them before activities I am too tired to participate. I have asked the staff several times if I can take the meds later in the day, but they won't let me. The next day they tried to take my maroon phase shirt because of the pill charge, but I refused; so they sent me back to security for that, too.

6. It used to be that they would take your mattress during the day in security. Now you can keep your mattress, but you have to give up your blanket or you don't get to shower. Most of the girls usually lie on the floor near the cell door, so they can talk to other girls through the space under the door. It is filthy and nasty in security. They don't clean it regularly, and there is sometimes blood and gross stuff on the walls and floor. Two days ago, Lornay Jackson split her head open in security and was bleeding all over the floor.

7. Last month I was sent to security twice for talking. I was sent once just for saying hi to staff when I was walking between buildings. When I got to security, they asked me to remove my underwear but I refused, so they left me handcuffed in the cell.

I declare under penalty of perjury under the laws of the United States of America and the laws of the state of Texas that the foregoing is true and correct to the best of my knowledge.

Signed WJ 21, 2009, in Brownwood, Texas.

Identifying Information Redacted  
Pursuant to Protective Order \_\_\_\_\_  
Print Name:

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
SAN ANGELO DIVISION

K.C., on behalf of herself and all others  
similarly situated, *et al.*,

Plaintiffs,

v.

Cherie Townsend, in her official capacity as  
Executive Director of the Texas Youth  
Commission, *et al.*,

Defendants.

Civil No. 6:09-CV-012-C

Hon. Sam R. Cummings

**DECLARATION OF** Identifying Information Redacted  
Pursuant to Protective Order

My name is \_\_\_\_\_ and I declare:

1. I am competent to make this declaration. I provide this declaration based upon my personal knowledge. I would testify as to the facts in this declaration under oath if called upon to do so.

2. I am 16 years old. I currently reside at the Ron Jackson State Juvenile Correctional Complex in Brownwood, Texas ("Brownwood"), which is run by the Texas Youth Commission ("TYC"). I was admitted to this facility on March 14, 2008.

3. The ACLU and Dechert LLP are acting as my personal representatives in connection with a lawsuit against TYC. I have signed a document, along with my legal guardian, authorizing the release of my medical records and any documents in the TYC's possession to my representatives to assist in preparing this case.

4. During my time at Brownwood, I have been referred to security about 30 to 40 times, and was admitted almost all of those times. Recently, I've stayed in security for as long as 5 days on IDP for the charge of constant disruption. On June 28, 2009, I was out laying down in the dayroom, and one of the other girls took one of the socks off my feet while I was sleeping. She was referred to security and she left with my sock. I needed a sock so I asked the staff to get me a new a sock or to open the laundry room so I could get a sock. Mr. Fullbright said no and to put my shoes on without a sock. I didn't want to wear my tennis shoes without my socks and I asked him if I could wear my slides. He said no, and referred me to security for not doing what he asked. I was upset about going because I felt that this was a dumb reason to send me to security. They handcuffed me and then grabbed my arm to escort me to security, but I don't like to be touched by the male guards, because it reminds me of some things in my past, and I wanted to walk on my own. After this happened, I explained to the Security Director, Mr. Hardin, about how the male staff made me feel uncomfortable and bring back bad memories. But all he said was that this was procedure.

5. On June 28, 2009, I was sent to security, and I was angry about being there. Mr. Schultz said that I was resisting. He got on top of me to restrain me and I was struggling because I could not breathe. The next thing I know he punched me in the face with a closed fist. The camera he was holding was kicked out of the way so there is no video of him hitting me.

6. On the night of June 28, 2009, I was in my cell in security when a staff member, Ms. Kellems, came into my cell and started walking around. I had already heard about her from some of the other girls and how she just walks into our rooms in security without any good reason. She was making me nervous and I moved towards the door. She grabbed me by my hair and yanked me back. Due to some things that have happened to me in my past, I hate it when people pull my hair. I just snapped and hit her. They kept me on the IDP program for 5 days before my level 2 hearing. They said they were keeping me longer than the usual 3 days because they thought I would go back to the dorm and assault someone, but I never said or acted like I would do that. When they finally had the hearing to determine whether I should be admitted to RDP, they disregarded videotape evidence that supported my defense on both incidents. I was admitted to RDP but released after 3 days.

7. We don't have many opportunities to talk to the other girls. We used to be able to have one-on-one conversations with other girls we trust, but now we are not allowed. Now I don't have a way to talk about how I am feeling when I don't trust staff. I have two friends here at Brownwood that I met out in the free. Since my family lives so far away, I have only had one visitor since I have been at Brownwood.

8. My suicidal feelings have gotten worse since I have been at Brownwood. It makes me upset because we are here to get help but I don't receive any counseling to discuss my problems; we are just given medication. I have asked if they can send me to Corsicana because I don't feel safe here.

9. I declare under penalty of perjury under the laws of the United States of America and the laws of the state of Texas that the foregoing is true and correct to the best of my knowledge.

Signed July 10, 2009, in Brownwood, Texas.

Identifying Information Redacted  
Pursuant to Protective Order

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
SAN ANGELO DIVISION

K.C., on behalf of herself and all others  
similarly situated, *et al.*,

Plaintiffs,

v.

Cherie Townsend, in her official capacity as  
Executive Director of the Texas Youth  
Commission, *et al.*,

Defendants.

Civil No. 6:09-CV-012-C

Hon. Sam R. Cummings

DECLARATION OF

Identifying Information Redacted  
Pursuant to Protective Order

My name is \_\_\_\_\_, and I declare:

1. I am competent to make this declaration. I provide this declaration based upon my personal knowledge. I would testify as to the facts in this declaration under oath if called upon to do so.

2. I am 18 years old. I currently reside at the Ron Jackson State Juvenile Correctional Complex in Brownwood, Texas (“Brownwood”), which is run by the Texas Youth Commission (“TYC”). I was admitted to this facility for the first time on February 1, 2006, and the most recent time on November 19, 2008.

3. The ACLU and Dechert LLP are acting as my personal representatives in connection with a lawsuit against TYC. I have signed a document authorizing the release of my medical records and any documents in the TYC’s possession to my representatives to assist in preparing this case.

4. During all the years I have spent at Brownwood, I have been referred to security somewhere around 500 times, and I was admitted most of the time. The security building is nasty—there are feces, pee, and blood on the walls, and sometimes girls get staph infections

from being in there. The gowns they make us wear in security are old and not washed right; plus, the Velcro is worn out and they pop open easily.

5. One time I snuck in a pen and a lip gloss into security. The pen was so that I could write and express my feelings. After showering, I tucked the pen under my breast and the lip gloss under my neck. Mr. Quinn saw that I had lip gloss and entered my cell to take it. He then accused me of hiding something else. The pen dropped, and we both dove for it. Ms. Torres came in and started restraining me. My gown popped open. Ms. Torres tried to cover me up, but Mr. Quinn could see everything. He grabbed my feet and pulled them up after I was already restrained. They basically hog-tied me and carried me to 200 pod in the SA dorm. I heard Jaleisa Miles yelling from the next cell that what was happening was wrong.

6. On May 30, 2009 I was sent to security for calling Mr. Moore a white cracker. He didn't give me a time out before referring me. When I tried to reason with him, he came at me across the table and flipped it over. I thought he was going to try and choke me. Before he could touch me, Ms. Vargas pushed me out of Mr. Moore's way. Pastor Rickets and his kids, who were volunteering, saw the whole thing. I was shipped to security and released shortly after. Usually when something like this happens with a staff they are moved off of the dorm immediately; however, when I came back from security Mr. Moore was still there. I told Ms. Vargas that I was afraid to go back to my wing because he was still there. She told me to sit by her side until he left. This incident was also reported to Mr. Adamski by another JCO staff.

7. I have been peppered sprayed like 10 times. Each time I have been sprayed was for putting my hand in my shirt and refusing to go to security. Every time you get shipped, you are cuffed by the officers and put in a van. Regardless of whether you are admitted or have tried to harm yourself, when you get to security you have to remove your bra and underwear in front of whoever is standing there. If they ask us to remove our panties and we are on our period, we don't have to remove them but we have to prove that we are on our period.

8. I don't talk to the other girls very much. We are not able to talk to girls from other dorms, and we can't write to them either. I feel like this place is making me psycho.



9. I declare under penalty of perjury under the laws of the United States of America and the laws of the state of Texas that the foregoing is true and correct to the best of my knowledge.

Signed July 21<sup>st</sup>, 2009, in Brownwood, Texas.

Identifying Information Redacted  
Pursuant to Protective Order

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
SAN ANGELO DIVISION**

K.C., on behalf of herself and all others  
similarly situated, *et al.*,

Plaintiffs,

v.

Cherie Townsend, in her official capacity as  
Executive Director of the Texas Youth  
Commission, *et al.*,

Defendants.

Civil No. 6:09-CV-012-C

Hon. Sam R. Cummings

**DECLARATION OF** Identifying Information Redacted  
Pursuant to Protective Order

My name is \_\_\_\_\_ and I declare:

1. I am competent to make this declaration. I provide this declaration based upon my personal knowledge. I would testify as to the facts in this declaration under oath if called upon to do so.

2. I am 16 years old. I currently reside at the Ron Jackson State Juvenile Correctional Complex in Brownwood, Texas ("Brownwood"), which is run by the Texas Youth Commission ("TYC"). I was admitted to this facility on December 22, 2008.

3. The ACLU and Dechert LLP are acting as my personal representatives in connection with a lawsuit against TYC. I have signed a document, along with my

legal guardian, authorizing the release of my medical records and any documents in the TYC's possession to my representatives to assist in preparing this case.

4. I have been referred and admitted to security about 29 times since being at Brownwood, but most of those times were when I self-referred. When they still allowed self-referrals I would go whenever I needed to be alone, usually because a staff member was trying to provoke me or when I was just mad.

5. The longest I have stayed in security was recently for two weeks. I was shipped on June 15, 2009 and then admitted to the Redirect (RDP) program after a Level 2 hearing one week later. I was admitted to RDP because they said that I assaulted a staff member. I was released from RDP on June 26. The isolation was difficult because I never got to come out of the rooms or stretch or anything when I was on the IDP program. All I was allowed to do was take a shower and go back to my rooms. I was on the IDP program for one week, when it usually only takes three days to get the hearing. They told me I was in IDP so long because my caseworker was out. After I had my level 2 hearing and was admitted to the RDP program it was better for a few days because I could come out of my room for school and rec activities, just like the regular dorms. There were two other girls on RDP at that time that I could talk to. However, there was a riot on campus and they would not let me out at all for two days, not even to shower, even though we were on the RDP program. This isolation made me feel angry because it felt like I was back in the IDP program all over again.

6. The incident that generated this recent stay in security happened when I was on the dorm in behavior group. Another girl was being aggressive and scratched my face. I was then manually restrained by two officers, though the other girl was not. I told them they did not have to restrain me because they had my compliance, but they did it anyway. In the van on the drive to security, the officers kept provoking and threatening me with a pepper spray bottle. They put me in shackles and took me to a security cell. Later they dragged me out of the room by my feet. They only do these things when the cameras are not around.

7. I have been pepper sprayed 2 times since I have been at Brownwood. The first time happened because me and a friend were passing out cookies that we took from the cafeteria to the girls down the hall. They peppered sprayed me for that and it got in my eyes and stung. They said I was being violent, but all we were doing is eating cookies.

8. The next time I had my arms in my shirt. Ms. Smedly threatened to send me to security for that; I told her I didn't care and she called for security. Ms. Warten came to me and tried to pull my hands out of my shirt but I resisted. She shouted clear three times and then she pepper sprayed me.

9. I would like to have more counseling, but I have not been able to speak to a doctor since I've been here. I have never been to group therapy. I do not really feel safe in security because it's grimy in there.

10. I declare under penalty of perjury under the laws of the United States of America and the laws of the state of Texas that the foregoing is true and correct to the best of my knowledge.

Signed July 20, 2009, in Brownwood, Texas.

Identifying Information Redacted  
Pursuant to Protective Order



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June 3, 2009

**VIA ELECTRONIC MAIL**

Bruce Garcia  
Assistant Attorney General  
PO Box 12548, Capitol Station  
Austin, Texas 78711  
bruce.garcia@oag.state.tx.us

Re: K.C. v. Townsend, et al., 6:09-CV-012-C (N. D. Tex.)

Dear Mr. Garcia:

We write to request your assistance with a serious problem that affects our ability to represent our clients at the Brownwood facility effectively. We are having persistent and escalating difficulties communicating with our clients because TYC case workers often: (1) fail to make girls available for scheduled telephone appointments; (2) fail to return our telephone calls asking to schedule appointments promptly;<sup>1</sup> or (3) fail to arrange for the girls to attend scheduled telephone conferences with the requisite paperwork.

These problems have been particularly pronounced with two case workers, Ms. Young<sup>2</sup> and Ms. Hobbs.

To illustrate, here is a summary of ACLU paralegal Eliza Reshefsky's efforts—over a period of five weeks—to assist Shawntinique Barefield in executing a first appeal of her Brownwood grievance:

- 4/29 @ 4:12pm: left voicemail (for case worker Mr. Marso)
- 5/4 @ 2:25 pm: left voicemail (Mr. Marso)

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<sup>1</sup> Generally, we have been experiencing delays of well more than three business days.

<sup>2</sup> Our experience is that Ms. Young was formerly cooperative, but interactions with her recently have been fraught with problems.

- 5/5 @ 10:59 am: left voicemail (after learning that Ms. Barefield had been transferred to Ms. Young's caseload)
- 5/12 @ 2:20pm: placed call to Ms. Young, scheduled appointment to speak with Ms. Barefield, and asked her to make sure that client had the appropriate forms with her at the time of the call. Ms. Young resisted, stating: "I don't understand why she needs this" and "I don't know what form you are referring to."
- 5/13 @ 1:15pm: Ms. Young did not arrange for Ms. Barefield to make the call scheduled for this time; tried calling Ms. Young several times for call; received no answer, left voicemail.
- 5/13 @ afternoon: Ms. Young returned voicemail and said that she had been in a meeting.
- 5/19 @ 4:15pm: scheduled call took place but was only able to speak with Ms. Barefield for 7 minutes because she had a group session that she was not permitted to miss to stay on the phone. Ms. Young was asked if the call could be continued after group, she said that there was a BBQ later that day that the girls were excited about. (Ms. Barefield later reported that she didn't get to go to the BBQ.)
- 5/22 @ 4:10pm: Ms. Young didn't have anyone available to monitor this scheduled call and had to curtail it so that she could go to a training session. Finally, she got a "middle staff" to monitor the call, which took 10 minutes. Ms. Young didn't provide Ms. Barefield with the necessary appeal form as asked. After 10 minutes, middle staff tried to end the call. Ms. Young never brought the appeal form.
- 5/29: left voicemail, which was not returned
- 6/2: left voicemail, which was not returned

Similarly, the following summary shows Ms. Reshefsky's attempts to schedule a first appeal call with Ms. Hobbs on behalf of Tinisha Thomas:

- 5/4 @ 3:50 pm: left voicemail, which was not returned
- 5/8 @ 4:10 pm: left voicemail, which was not returned
- 5/12: left voicemail, which was not returned



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- 5/18 @ 3:23 pm: left voicemail, which was not returned
- 5/29: called other caseworker on dorm, Ms. Harlemon, to see if Ms. Hobbs was still employed by TYC; asked to have Ms. Hobbs put on the phone; spoke with Ms. Hobbs, scheduled legal call for same day, at 12:30 pm. Caseworker failed to call the phone number provided, and instead directed Ms. Thomas to call attorney Gretchen Sween, who had no knowledge of the scheduled call and was out of the office and unavailable.
- 6/2 @ 3:50 pm: left voicemail, which was not returned.

We are certain that you understand the importance of counsel having reasonable access to clients. We fear, however, that case workers currently employed by TYC may not appreciate the import of these issues or the fact that enabling the lines of communications between attorney and incarcerated client is not only a legal imperative but also an important part of their job. *See, e.g., Texas Administrative Code §§ 93.11, 93.13.*

We ask that you please send an e-mail or other reliable form of notice to all case workers on staff at the Brownwood facility directing them to:

- enable attorneys and their agents to make all requested telephone appointments with clients in TYC custody;
- return all telephone calls from the girls' attorneys and their agents within 24 hours;
- keep all telephone appointments as scheduled or, in cases of emergency, provide notice and prompt rescheduling; and
- ensure that the girls have as much time as necessary to complete telephone conferences with their attorneys or their agents, and that they are provided with all necessary TYC forms as prearranged.

As a courtesy, we would welcome confirmation that you have reminded the appropriate TYC personnel of these legal and professional duties. Please let us know if you have any questions regarding this request.



Dechert  
LLP

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Yours sincerely,

A handwritten signature in black ink, consisting of several overlapping, sweeping strokes that form the name 'Gretchen Sween'.

Gretchen Sween  
Counsel for Plaintiffs

CC by e-mail all co-counsel of record for Plaintiffs