

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF NORTH CAROLINA *et al.*,

Defendants

CASE NO. 1:16-CV-00425-TDS-JEP

**DEFENDANTS' AND INTERVENOR-DEFENDANTS' BRIEF IN OPPPOSITION  
TO THE UNITED STATES' MOTION FOR PRELIMINARY INJUNCTION**

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**DEFENDANTS' AND INTERVENOR-DEFENDANTS' BRIEF IN OPPPOSITON  
TO THE UNITED STATES' MOTION FOR PRELIMINARY INJUNCTION**

Defendants State of North Carolina, Governor Patrick McCrory, the North Carolina Department of Public Safety (“DPS”), together with Intervenor-Defendants Senator Phil Berger and Representative Tim Moore, respectfully submit this brief in opposition to the United States’ motion for preliminary injunction.

**INTRODUCTION**

As with the preliminary injunction motion filed by the *Carcaño* plaintiffs, the United States’ motion fails to grasp the serious privacy and public safety problems that North Carolina’s Public Facilities Privacy and Security Act (the “Act” or “HB2”) addresses. As the Act’s text and legislative history make clear, the General Assembly was focused—not on disparaging transgender individuals—but rather on a commonsense concern for preserving everyone’s privacy and safety in intimate settings such as restrooms, changing facilities, and showers. Representative McCraft aptly captured that concern when she said: “[A]s a mother and a grandmother of a fourteen-year-old grandchild, this is about common sense. This is about protecting, *not* from a transgender [person] … but from a predator.” Ex. D at 114 (emphasis added). The empirical basis for that concern is now well documented, not only in specific examples cited in Act’s legislative history, but also in two powerful expert reports, submitted with this brief—one from a former FBI sex crimes expert and the other from a highly experienced former metropolitan sheriff—showing that male predators could easily exploit the subjective access policy favored by the United States to invade the privacy and safety of North Carolina’s most vulnerable citizens.

As demonstrated below in Section I, the State of North Carolina’s compelling interests in protecting privacy and safety is a sufficient basis on which to deny both pending motions for preliminary injunction. As the Supreme Court held in *Winter v. NRDC*, 555 U.S. 7, 14 (2008), a motion to enjoin an ongoing governmental program can be rejected *solely* on the basis of the governmental interests supporting that program, apart from the underlying merits. This is the paradigmatic case for applying that principle. As explained by Defendants’ law-enforcement experts and established in the other evidence summarized below, enjoining Part I of HB2—as the United States and the *Carcaño* plaintiffs urge—would inflict upon North Carolina’s citizens a substantially increased risk of privacy violations and sex crimes that, in various ways, would invade their legitimate expectations of privacy and bodily security.

For similar reasons, as explained in Sections II and III, respectively, the balance of equities and the public interest counsel strongly against the United States’ proposed preliminary injunction—and also provide multiple independent bases for denying the United States’ motion. Indeed, it was evidently for similar reasons that the Supreme Court of the United States recently stayed a far narrower injunction in *Gloucester County School Board v. G.G.*, 2016 U.S. Lexis 4361 (U.S. Aug. 3, 2016) (staying preliminary injunction). This Court should follow the Supreme Court’s example and allow North Carolina’s law to remain in effect pending completion of these proceedings.

Finally, as explained in Section IV, and especially in light of the stay in *G.G.*, the United States cannot establish a substantial likelihood of ultimately prevailing on the merits of any of its claims. Before that extraordinary stay was issued, the Fourth

Circuit’s *G.G.* decision was the *only* decision that even arguably gave the plaintiffs any chance of succeeding on the merits. But it is now clear, in light of the *G.G.* stay, that the Fourth Circuit’s *G.G.* decision will likely be superseded in a matter of months by binding Supreme Court guidance on the proper application of Title IX to policies governing access to restrooms and similar facilities. Until that decision issues, no one can predict with any certainty whether the law on Title IX, or on the other statutes the United States invokes, will favor the United States or the Defendants. And that too is a sufficient basis for denying the United States’ motion—if the Court even chooses to address the merits.

## **BACKGROUND**

### **A. The Public Facilities Privacy and Security Act**

On March 23, 2016, the Public Facilities Privacy and Security Act (the “Act” or “HB2”) was passed by the North Carolina General Assembly and signed into law by Governor Patrick McCrory the same day. 2016 N.C. Sess. Laws 3, amending N.C. Gen. Stat. § 115C-47 (Ex. A). In relevant part, the Act requires public schools and public agencies to designate multiple-occupancy restrooms, changing facilities, and showers for use only by persons “based on their biological sex,” HB2, Pt. I, §§ 1.2(B), 1.3(B), and defines “biological sex” as “[t]he physical condition of being male or female, which is stated on a person’s birth certificate.” *Id.* §§1.2(A)(1), 1.3(A)(1). The Act allows for the provision of single-occupancy facilities to persons who need an accommodation, *Id.* §§ 1.2(C), 1.3(C), and allows development of different policies in privately-owned restrooms, changing facilities, and showers. *Id.* §1.3(A)(4) (defining “public agency”).

On April 12, 2016, Governor McCrory issued “Executive Order 93 to Protect Privacy and Equality” (“EO 93”) (Ex. B). EO 93 affirmed anti-discrimination protections for state employees on the basis of, *inter alia*, “sex, sexual orientation, [and] gender identity.” *Id.* § 2. The order also affirmed that under North Carolina law cabinet agencies must require multiple-occupancy bathroom and changing facilities to be designated by biological sex; that “[a]gencies may make reasonable accommodations upon a person’s request due to special circumstances”; and that North Carolina “private businesses can set their own rules for their own restroom, locker room and shower facilities, free from government interference.” *Id.* § 3. Finally, the order directed all agencies to “provide a reasonable accommodation of a single occupancy restroom, locker room or shower facility upon request due to special circumstances,” when readily available and practicable, and also “invited and encouraged” provision of similar accommodations by “[a]ll council of state agencies, cities, counties, the University of North Carolina System and the North Carolina Community College System.” *Id.*

The Act was passed in response to the Charlotte City Council’s adoption of an ordinance on February 22, 2016, adding, *inter alia*, “gender identity” and “gender expression” to non-discrimination provisions governing public accommodations, contracting, and vehicle permitting. Charlotte City Council Ord. No. 7056 (proposed amendments to Charlotte City Code Chs. 2, 12 & 22) (Ex. C). The ordinance would have expressly removed existing exemptions for “[r]estrooms, shower rooms, bathhouses and similar facilities which are in their nature private,” for “YMCA, YWCA and similar types of dormitory lodging facilities,” and for “[a] private club or other establishment not, in

fact, open to the public.” Ex. C, at § 3 (proposing amendments to Charlotte City Code, Art. III, ch. 2, § 12-59(b)). Consequently, the ordinance would have created a new anti-discrimination provision requiring access to restrooms, shower rooms, dormitory lodging, and similar facilities on the basis of “gender identity” and “gender expression,” and would have applied that requirement to public and private entities in Charlotte, as well as anyone contracting with the City.<sup>1</sup> The ordinance was to take effect on April 1, 2016. Ex. D, at § 5. The Act preempted the ordinance by providing that such anti-discrimination measures are “properly an issue of general, statewide concern,” and by establishing statewide measures prohibiting discrimination in public accommodations “because of race, religion, color, national origin, or biological sex”—specifying, however, that designating restrooms or locker rooms “according to biological sex … shall not be deemed to constitute discrimination.” HB2, Pt. II, §§ 2.1(C), 3.3(A), (B).

The legislative debate prior to the Act’s passage reflected the serious concerns with privacy and safety that would be created by the Charlotte Ordinance.<sup>2</sup> For example, in the House, Representative Stam introduced the bill by stating “this is a common sense bill that protects the privacy expectations of our citizens.” Ex. D, at 3. Similarly, Representative Arp explained that he “d[id] not think counties and municipalities and local governments have the authority to strip all North Carolina citizens of their right to privacy in showers, bathrooms and locker rooms.” *Id.* at 48. He added that the Act

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<sup>1</sup> See Ex. C, at § 1 (proposed amendments to Charlotte City Code, Art. V, Ch. 2, §§ 2-151—2-153, § 2-166—2-167); *id.* § 3 (Charlotte City Code, Art. III, Ch. 2, §§ 12-58—12-59); *id.* § 4 (Charlotte City Code, Art. II, Ch. 22, § 22-31).

<sup>2</sup> Attached as exhibits to this opposition are condensed transcripts of the House and Senate floor and committee sessions concerning the Act. See Ex. D (House floor session); Ex. E (House judiciary committee); Ex. F (Senate floor session); Ex. G (Senate judiciary committee).

“actually provides the authority, broad authority, of the schools to accommodate any student in any manner without stripping other students of their right to privacy in showers, in locker rooms and bathrooms.” Ex. D, at 48.<sup>3</sup> Similar concerns were expressed in the Senate. For instance, Senator Newton noted that by removing exemptions for restrooms, locker rooms, or showers, the Charlotte City Council “created ... a real public safety risk [for] the citizens of this state that ... may choose to visit Charlotte; or that live in Charlotte[.]” Ex. F, at 14-15.<sup>4</sup>

The Act and the Governor’s executive order have provoked a tsunami of legal activity of which this Court is well aware. Among that activity is the United States’ present motion for preliminary injunction, which seeks to facially enjoin part I of the Act based on the argument that the Act discriminates against transgender persons on the basis of “sex” in violation of Title IX and Title VII, and on the basis of “sex [or] gender identity” in violation of the Violence Against Women Act (“VAWA”). *See* United States’ Mem. of Law in Support of Prelim. Inj. (“Mem”) (Doc. 74), at 1-2, 12, 16, 35.

## B. Sex, Gender Identity, and Gender Dysphoria

Before directly addressing the merits of the United States’ argument, one overarching matter must be addressed. In claiming the Act constitutes “sex” discrimination, the United States liberally deploys putatively expert opinion concerning

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<sup>3</sup> See also, e.g., *id.* at 85 (Rep. Martin) (“It’s common sense. It protects the privacy for every citizen in this state, and that’s important.”); *id.* at 114 (Rep. McElraft) (“But I will let you know, that as a mother and a grandmother of a fourteen-year-old grandchild, this is about common sense.”)

<sup>4</sup> These privacy and safety concerns were also expressed in committee hearings. *See, e.g.* Ex. E, at 5 (Rep. Bishop) (“I think what we’re doing is preserving sense of privacy that people have long expected in private facilities.”); Ex. G, at 3-4 (Sen. Newton) (noting that others in the state have “refuse[d] to take action to protect the safety and privacy of women and children”)); *id.* at 5 (Sen. Newton) (noting view of county sheriff that the ordinance would “put [law enforcement officers] in the awkward position of determining who is entitled to be in the bathroom”).

gender identity and transgender persons. *See* Mem. at 3-6 (background section on “Sex, Gender Identity, and Being Transgender”). Based on these opinions, the United States advances the staggering proposition that “sex” in federal law (including in Title IX and Title VII) is “critical[ly]” determined by gender identity, defined as “a person’s internal sense of being male or female,” Mem. at 24, 3, and that, consequently, defining “sex” according to biological characteristics “is grounded in stereotype rather than reality.” *Id.* at 26. The United States says one must accept this view to have “an informed understanding of the real-life meaning of the term ‘sex.’” *Id.* at 24. But the United States offers no evidence or argument to show that Congress incorporated this *avant garde* view into Title IX or Title VII, or into the concept of “sex” contained in any other federal law.

That is because there is no support for the United States’ outlandish position. As explained more fully below, when federal law prohibits discrimination on the basis of “sex,” it prohibits discrimination based on “nothing more than male and female, under the traditional binary conception of sex consistent with one’s birth or biological sex.” *Johnston v. Univ. of Pittsburgh*, 97 F.Supp.3d 657, 676 (W.D. Pa. 2015) (citing *Etsitty v. Utah Transit Auth.*, 502 F.3d 1215, 1222 (10th Cir. 2007)). Moreover, “because the interpretation of the word ‘sex’ as used in [federal] statute[s]” is not a “mere matter of expert medical testimony or the credibility of witnesses produced in court,” *Ulane v. Eastern Airlines, Inc.*, 742 F.2d 1081, 1086 (7th Cir. 1984), the United States’ expert evidence is irrelevant to the resolution of these cases. Simply put, the United States Justice Department cannot alter the definition of “sex” in federal law through the *ipse*

*dixit* of expert witnesses. If that is to occur, “the new definition must come from Congress.” *Johnston*, 97 F.Supp.3d at 675-76 (quoting *Ulano*, 742 F.2d at 1087).

Even taken at face value, however, the United States’ expert evidence contradicts accepted medical and scientific standards and should be rejected on its own terms—assuming the Court ever reaches those irrelevant questions.

### **1. *Sex and gender identity***

According to standard medical science, the concept of sex in human beings is defined in terms of the complementary roles that males and females play in reproduction. Hruz Decl. (Ex. H) ¶ 10; Van Meter Decl. (Ex. I) ¶ 15; Josephson Decl. (Ex. J) ¶ 10; Mayer Decl. (Ex. K) ¶¶ 13, 22-26.<sup>5</sup> Sex is accordingly a “binary,” either-or proposition: a person is either male or female, and the hypothesis of a “third” sex is contrary to a sound medical and physiological understanding of the human person. Hruz ¶ 15; Van Meter ¶ 15; Josephson ¶ 10; Mayer ¶ 24-26, 34. All of this is readily confirmable by science,<sup>6</sup> but it is also something known by most pre-teenagers.

A person’s sex is encoded in his or her genes at conception. Hruz ¶ 14; Van Meter ¶ 12; Josephson ¶ 10. Sex differentiation occurs in fetal development, when the presence

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<sup>5</sup> See also, e.g., “Gender Dysphoria,” DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, at 451 (American Psychiatric Ass’n, 5th ed. 2013) (“DSM-V”) (“sex” means “the biological indicators of male and female (understood in the context of reproductive capacity”); American Psychological Ass’n, *Answers to Your Questions About Transgender People, Gender Identity, and Gender Expression* (“APA Answers to Your Questions”) (noting “[s]ex ... refers to one’s biological status as either male or female, and is associated primarily with physical attributes such as chromosomes, hormone prevalence, and external and internal anatomy”), <http://www.apa.org/topics/lgbt/transgender.aspx>.

<sup>6</sup> See, e.g., Hruz ¶ 29 (observing “[t]he prevailing, constant and accurate designation of sex as a biological trait ... manifested in the appearance of external genitalia at birth remains the proper scientific and medical standard”); Mayer ¶ 23 (observing “[i]n biology, an organism is male or female if it is structured to perform one of the respective roles in reproduction”).

of a Y chromosome directs development of gonadal tissue, producing hormones that form male sex organs in tissues that would otherwise develop into female sex organs. Hruz ¶ 14; Van Meter ¶ 12. To be sure, rare disorders of sexual development (“DSDs”) involving chromosomal or hormonal abnormalities can result in ambiguous genitalia. Hruz ¶ 18; Van Meter ¶¶ 12-14, 16, 18; Josephson ¶ 11. But fortunately these conditions are extremely rare—occurring in 1 out of 4,500 to 5,500 live births. Van Meter ¶ 14; Josephson ¶ 11. Persons born with these conditions—sometimes called “intersex”—do not constitute a “third” sex, but instead have medically verifiable conditions requiring careful evaluation and therapeutic interventions. Hruz ¶¶ 19, 20-21; Van Meter ¶¶ 15-20; Mayer ¶¶ 35-37. The overwhelming majority of people, however, do not suffer from these conditions, and thus observance of external genitalia at birth is a highly accurate method for determining sex, accurate in over 99.9% of cases.<sup>7</sup>

In contrast to sex, “gender” describes psychological and cultural characteristics associated with a person’s sex. Hruz ¶ 11; Van Meter ¶ 21; Josephson ¶¶ 12, 17; Mayer ¶ 22; *cf.*, e.g., DSM-V, at 451 (“gender … denote[s] the public (and usually legally recognized) lived role as boy or girl, man or woman”). Understood in that way, gender is by definition distinct from a person’s birth sex. Hruz ¶ 22; Josephson ¶ 16; Mayer ¶ 20. “Gender identity” is “a category of social identity and refers to an individual’s identification as male, female, or, occasionally, some category other than male or

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<sup>7</sup> See, e.g., Hruz ¶¶ 15-17; *id.* ¶ 29 (noting this is “the proper scientific and medical standard”); Mayer ¶ 73 (“The consensus of scientific evidence overwhelmingly supports the proposition that a physically and developmentally normal boy or girl is indeed what he or she appears to be at birth.”).

female.” DSM-V, at 451; Hruz ¶ 12. Like many aspects of a person’s identity, gender identity begins to develop during early childhood.<sup>8</sup>

## 2. *Gender dysphoria*

For reasons not fully understood, some small number of individuals experience incongruence between their gender identity—how they internally perceive themselves as male, female, or some other category—and their sex. Hruz ¶¶ 12, 22; Van Meter ¶ 22; Josephson ¶¶ 19-20; Mayer ¶ 42. This rare<sup>9</sup> condition is today called “gender dysphoria” and was formerly called “gender identity disorder.” Hruz ¶ 31; Van Meter ¶ 23, 25; Josephson ¶ 21.<sup>10</sup> The condition may lead a person to desire to be the opposite sex, “but may [also] include a desire to be of an alternative gender, provided that it differs from the individual’s assigned gender.” DSM-V, at 453. The condition is properly understood as a psychological pathology requiring compassionate care and treatment, because incongruence between one’s gender identity and one’s sex is not considered a normal developmental variance. Hruz ¶¶ 31-32; Josephson ¶ 25.

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<sup>8</sup> Josephson ¶¶ 12-17 (explaining that gender identity “initially develops early in life, around the ages of 3 to 4, and is continually shaped and modified by interactions with the environment, typically family and parental influences”).

<sup>9</sup> While difficult to document, the condition is estimated in a tiny percentage of persons. *See, e.g.*, Hruz ¶ 23 (prevalence “has not been established by rigorous scientific analysis,” but noting estimates in DSM-V between “0.005% to 0.014% for adult males and 0.002% to 0.003% for adult females”); Van Meter ¶ 24 (observing “[e]xact estimates are hard to document since reporting is often anecdotal,” but estimating “0.001% of biological females and 0.0033% of biological males”).

<sup>10</sup> *And see* DSM-V, at 451 (“[g]ender dysphoria” is “a general descriptive term [that] refers to an individual’s affective / cognitive discontent with the assigned gender,” and “the distress that may accompany the incongruence between one’s experienced or expressed gender and one’s assigned gender”).

Some persons who experience gender incongruence are referred to as “transgender.” Josephson ¶ 23; Mayer ¶¶ 43-44.<sup>11</sup> As the American Psychological Association (“APA”) explains, “[m]any identities fall under the transgender umbrella,” including “transsexuals,” “cross-dressers,” and “drag queens and drag kings.” APA *Answers to Your Questions, supra* (“What are some categories or types of transgender people?”). According to the APA, the term also embraces persons with more fluid conceptions of gender, such as “genderqueer” (*i.e.*, persons who “define their gender as falling somewhere on a continuum between male and female” or “as wholly different from these terms”), as well as “androgynous, multigendered, gender nonconforming, third gender, and two-spirit people,” terms whose “[e]xact definitions ... vary from person to person and may change over time, but often include a sense of blending or alternating genders.” *Id.*

Strong scientific evidence refutes the theory that gender identity is determined at birth and fixed.<sup>12</sup> Such evidence comes from identical-twin studies, and also from “well established peer reviewed literature” indicating that the vast majority (80-95%) of gender dysphoric children “revert to a gender identity concordant with their biological sex by late adolescence.” Hruz ¶¶ 24-25.<sup>13</sup> The best evidence available indicates that the causes

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<sup>11</sup> See, e.g., DSM-V, at 451 (noting “[t]ransgender refers to the broad spectrum of individuals who transiently or persistently identify with a gender different from their natal gender”).

<sup>12</sup> See, e.g., Mayer ¶ 40 (“Scientific assertions that gender identity is innate or fixed at a young age and that gender identity has a strong biological basis are simply unsubstantiated.”); *id.* ¶ 72 (“Unlike the differences between the sexes, ... there are no biological features that can reliably identify transgender individuals as different from others.”).

<sup>13</sup> See also, e.g., Van Meter ¶ 35 (“Regarding transgenderism, twin studies of adults prove definitively that prenatal genetic and hormone influent is minimal.”); Josephson ¶ 24 (“There is strong evidence against the theory that gender identity is determined at or before birth and is unchangeable.”).

of gender dysphoria are multifactorial and primarily involve post-natal environmental factors. Hruz ¶ 24; Van Meter ¶¶ 35-36.<sup>14</sup> Such factors may include familial psychopathology (especially paternal) and a history of abuse. Josephson ¶¶ 31-32; Van meter ¶ 41; Heyer Decl. (Ex. L) ¶¶ 24-32. Gender dysphoria is often accompanied by “comorbidities” such as dissociative disorders, depression, anxiety, and suicidal thoughts.<sup>15</sup> The hypothesis of some transgender advocates that societal rejection is the root cause of gender dysphoria “was validly questioned by a study from Sweden showing that gender dysphoria was not eliminated by hormonal and surgical treatment, even with widespread societal acceptance.” Van Meter ¶ 40 (citing Dhenje, Cecilia et al., *Long-term Follow-up of Transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden*, *PLoS One*, Feb. 2011, Vol. 6, Issue 2, e16885). Furthermore, as the DSM-V observes, “anxiety has been found to be relatively common in individuals with gender dysphoria, even in cultures with accepting attitudes toward gender-variant behavior.” DSM-V, at 459.

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<sup>14</sup> See also Josephson ¶¶ 31-32 (noting possible factors such as “individual parental factors and parent relationship factors,” “father absence and father psychopathology,” and “an increased incidence of parental psychopathology”); Mayer ¶48 (“Traumatic experiences can also cause a child to express distress with the gender associated with his or her biological sex.”).

<sup>15</sup> See Josephson ¶ 33 (noting “[a] recent large-scale study showed that children with gender dysphoria were much more likely to have self-harm ideation, suicidal thinking, depression, overall significantly increased behavior problems and poor peer relations”); DSM-V, at 458-49 (noting that “clinically referred children with gender dysphoria show elevated levels of emotional and behavioral problems—most commonly, anxiety, disruptive and impulse-control, and depressive disorders,” as well as “[a]utism spectrum disorder”); *id.* at 459 (noting adolescents with gender dysphoria “appear to have comorbid mental disorders, with anxiety and depressive disorders being the most common,” as well as “autism spectrum disorder … more prevalent … than in the general population”); *id.* (“Clinically referred adults with gender dysphoria may have coexisting mental health problems, most commonly anxiety and depressive disorders.”); Heyer ¶¶ 24-32 (discussing co-morbid psychological conditions).

There is no reliable evidence of a biological difference between gender dysphoric individuals and individuals who do not suffer from that condition. Hruz ¶ 26; Van Meter ¶¶ 31-34.<sup>16</sup> Studies purporting to show differences in brain structure in gender-dysphoric persons are unpersuasive due to poor methodology, limited number of subjects, and the failure to account for neuroplasticity, the well-established phenomenon in which long-term behavior alters brain micro-structures.<sup>17</sup>

### **3. *Treatment of gender dysphoria***

There is no widely accepted standard of care among medical professionals for the treatment of gender dysphoria.<sup>18</sup> The guidelines of advocacy organizations such as the “World Professional Association for Transgender Health” (“WPATH”) do not establish scientifically or medically sound standards for treating gender dysphoria or for

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<sup>16</sup> See *id.* ¶ 33 (observing that “[t]here are no published studies documenting MRI-verified differences in the brains of gender-disordered children or adolescents” and that “[t]he DSD guidelines also specifically state that current MRI technology cannot be used to identify those patients who should be raised as males or raised as females”).

<sup>17</sup> See generally Van Meter ¶¶ 31-34; see *id.* ¶ 31 (observing “[t]hese studies ... are of limited clinical significance due to the small number of subjects and failure to account for neuroplasticity”); Josephson ¶ 30 (findings in brain studies “have been inconsistent and inconclusive” and “[a]t the present time, research has been unable to identify a clear biological anomaly associated with gender discordance”); Mayer ¶ 51 (“Current studies on associations between brain structure and transgender identity are small, methodologically limited, inconclusive, and sometimes contradictory.”); see also *id.* ¶¶ 53-73 (explaining that various brain studies “show inconclusive evidence and mixed findings,” and results that are “conflicting and confusing,” and that, regardless, those studies “cannot support any conclusion that” gender dysphoria is due to “an innate, biological condition of the brain” because they fail to account for the effects of “learned behavior and neuroplasticity”).

<sup>18</sup> See, e.g., Josephson ¶ 34 (noting “a paucity of research data on the treatment of gender discordance, particularly in children and adolescents” and “no controlled studies assigning youth to either psychological intervention or medical intervention groups”); Van Meter ¶ 57 (noting absence of consensus on “where to send the [gender dysphoric] patient for valid psychological care”); Mayer ¶ 77 (noting “the uncertainty surrounding the diagnosis of and prognosis for gender dysphoria in children”); *id.* (noting “high level of uncertainty regarding various outcomes after sex-reassignment surgery” in gender dysphoric adults).

addressing its underlying psychological and psychiatric etiology. Van Meter ¶¶ 53-55; Hruz ¶ 27; Heyer ¶¶ 17-18.

For children and adolescents diagnosed with gender dysphoria, strong evidence shows that the vast majority of cases (80-95%) will resolve by the end of puberty. Hruz ¶¶ 25, 35.<sup>19</sup> Thus, the most effective course of treatment is individual psychological therapy, family therapy, and treatment of psychological co-morbidities, along with allowing nature to do its work in puberty. Hruz ¶ 35; Van Meter ¶ 41.<sup>20</sup>

Puberty is not a disease condition, but is rather a necessary part of a young person's development into a healthy adult; thus, contrary to approaches advocated by some, puberty cannot be delayed without serious adverse consequences. Hruz ¶ 35; Van Meter ¶ 42.<sup>21</sup> Preventing or delaying puberty in children and adolescents through

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<sup>19</sup> See also, e.g., Van Meter ¶ 41 (noting “the high degree of eventual desistence of gender discordance/dysphoria by the end of puberty”); *id.* ¶ 43 (noting “proven scientific evidence that 80%-95% of pre-pubertal children with [gender dysphoria] will come to identify with their biological sex by late adolescence”); Josephson ¶ 26 (discussing “[l]ongitudinal studies of pre-pubertal children” which “indicate that for the majority of children studied, cross-gender wishes or desires typically fade over time and do not persist into adulthood,” with “approximately 65% to 95% of youth no longer being gender incongruent by late adolescence”); Mayer ¶ 76 (noting “[t]here is little evidence that gender identity issues have a high rate of persistence in children”) (citing DSM-V, at 455).

<sup>20</sup> See also *id.* ¶ 43 (observing “[t]he major benefit of enduring puberty in a [gender dysphoric] patient is that it provides a strong likelihood of alignment of his gender identity with his natal sex”); see also Mayer ¶ 77 (observing that “[t]herapeutic interventions for children must take into account the probability that the children may outgrow cross-gender identification”); *id.* ¶ 78-80 (discussing approach of Dr. Kenneth Zucker to children with gender incongruence involving “offering psychosocial treatments to help them embrace their gender corresponding with their biological sex,” and follow-up research finding that “gender identity disorder persisted in only 3 of the 25 girls they had treated”). Dr. Zucker treated children with gender identity disorder for over 30 years. Van Meter ¶ 38. Zucker focused on thoroughly assessing contributing psychological factors (such as family dysfunction, history of abuse or trauma, bullying, etc.) through cognitive therapy, limiting cross-gender behavior, and encouraging gender-neutral or gender-conforming behavior, structured peer-group encounters, and same-sex friendships. See Mayer ¶¶ 78-80 (discussing Zucker’s approach and results).

<sup>21</sup> See also Mayer ¶¶ 82-86 (noting “[t]here is relatively little evidence for the therapeutic value of these kinds of puberty-delaying treatments,” and critiquing Dutch study on puberty suppression due to “lack of a matched control group” and findings that “did not reach statistical significance”).

hormone “blockers” is not a medically supported form of treatment. Hruz ¶ 34. Such treatment is “without scientific basis” and dangerous. Van Meter ¶¶ 44, 45 (noting that “use of cross-sex hormones during this time frame has no basis of safety and efficacy”). Adverse affects on bone density may well be irreversible, and cross-sex hormone therapy can permanently affect a person’s fertility. Hruz ¶ 36; Van Meter ¶¶ 44-46. “Other potential adverse effects include disfiguring acne, high blood pressure, weight gain, abnormal glucose intolerance, breast cancer, liver disease, thrombosis, and cardiovascular disease.” Hruz ¶ 36.<sup>22</sup> According to recent statement from the American College of Pediatricians, “The treatment of [gender dysphoria] in childhood with hormones effectively amounts to mass experimentation on, and sterilization of, youth who are cognitively incapable of providing informed consent.” American College of Pediatricians, *Gender Dysphoria in Children*, (Aug. 2016) available at: <https://www.acpeds.org/the-college-speaks/position-statements/gender-dysphoria-in-children>.

Additionally, because the vast majority of gender dysphoria cases in young people will resolve by late adolescence, so-called “gender affirming” treatments are counter-productive.<sup>23</sup> Such misguided treatments include promoting cross-sex social behaviors such as using restrooms or other facilities consistent with a gender dysphoric person’s

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<sup>22</sup> See also Josephson ¶ 40 (“Considering the dire risks of psychopathology suicidal behavior, peer rejection, and the known risks of transition and lifelong hormone use, including permanent sterility, combined with the likelihood that gender discordance will remit (desist) by the end of puberty, a thorough exploration of contributing factors and empathic guidance in aligning gender with natal sex is indicated.”).

<sup>23</sup> See Josephson ¶ 41 (observing that “[c]hildren and adolescents should receive individual therapy to understand some of the factors that fuel” gender dysphoria and “attempt to resolve any conflicts and problems rather than solely be affirmed in the belief that they were born in the ‘wrong body’”).

perceived gender instead of his or her sex.<sup>24</sup> Indeed, such social transition measures may well “interfere with known rates of gender resolution”: that is, any treatment that “encourages or perpetuates transgender persistence for those who would otherwise desist can cause significant harm, including permanent sterility, to such persons,” and particularly to children who “are likely incapable of making informed consent to castrating treatments.” Hruz ¶ 38; *see also* Josephson ¶ 39 (“It is unlikely that most adolescents understand the effects of hormone treatments and potential effects on fertility.”).

With respect to treating gender dysphoria in adults, the available treatment data is poor. *See, e.g.*, Mayer ¶ 87 (noting “high level of uncertainty regarding various outcomes after sex-reassignment surgery”). One approach consists of “social transitioning” to the new gender for a period of one year, followed by hormone therapy, and in some cases sex reassignment surgery. Mem. at 5-6. Notably, however, this approach excludes any form of psychotherapy to help resolve gender confusion.<sup>25</sup> But there is no reliable scientific evidence that this kind of “gender transition” is effective in resolving gender dysphoria. While some studies show some mild but inconclusive improvement in subjective perception and short-term reduction in psychological distress, nonetheless long-term rates

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<sup>24</sup> *See* Hruz ¶ 38 (observing that, “[w]ith regard to public restroom and other intimate facilities, there is no evidence to support social measures that promote or encourage gender transition as a medically necessary or effective treatment for gender dysphoria”).

<sup>25</sup> *See, e.g.*, Mayer ¶ 88 (quoting assessment of studies of post-operative transsexuals noting “[t]here was no evaluation of whether other treatments, such as long-term counseling, might help transsexuals, or whether their gender confusion might lessen over time”); Heyer ¶¶ 19-31 (discussing benefits of psychotherapy in treating gender dysphoria).

of depression, suicide, and other psychiatric problems continue or worsen.<sup>26</sup> For instance, a systematic review of hormone therapy studies from the Mayo Clinic in 2010 found that “there was ‘very low quality evidence’ that sex reassignment via hormonal interventions ‘likely improves gender dysphoria, psychological functioning and comorbidities, sexual function and overall quality of life.’” Mayer ¶ 98 (citing Mohammad Hassan Murad *et al.*, “Hormonal therapy and sex reassignment: a systematic review and meta-analysis of quality of life and psychosocial outcomes,” *Clinical Endocrinology*, 72 (2010): 214-231, <http://dx.doi.org/10.1111/j.1365-2265.2009.03625.x>). Moreover, a reflexive insistence on “transitioning” ignores the lived experiences of many gender dysphoric persons deeply regret their transition. *See generally* Heyer ¶¶ 7, 32-43 (discussing these stories).

Furthermore, these hormonal and surgical therapies carry grave side-effects. Hormone treatment in adults involves administering cross-sex hormones either to masculinize or feminize appearance. The dangers and side-effects of long-term hormone use are well known.<sup>27</sup> “Sex-reassignment” surgery for can involve extensive surgical alterations to the genitals, face, chest, and other areas of the body. Van Meter ¶ 47; Heyer ¶ 21. None of these drastic surgical interventions “make” a patient into a person of

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<sup>26</sup> See Hruz ¶ 37 (observing that “adults who have undergone social transition with or without surgical modification of external genitalia continue to have rates of depression and suicide far above the background population”); Mayer ¶ 91 (noting 1979 study concluding that “sex reassignment surgery confers no objective advantage in terms of social rehabilitation” which “led the psychiatry department at Johns Hopkins Medical Center … to discontinue surgical interventions for sex changes for adults”).

<sup>27</sup> See, e.g., Van Meter ¶ 45 (“The use of such [cross-sex] hormone treatment in adults raises scientifically valid concerns that were amply expressed in the 2009 Endocrine Society Guidelines on Transgender treatment.”); Hruz ¶ 34 (noting 2009 Endocrine Society clinical guidelines stated that ‘the strength of recommendations and the quality of evidence was low or very low’); *id.* ¶ 49 (noting further defects in Endocrine Society guidelines).

the opposite sex. Mayer ¶¶ 34-38. They do, however, carry serious risks, including higher risks of psychiatric hospitalization and mortality. *Id.* ¶ 95. “Most alarmingly,” as one important study found, “sex-reassigned individuals were 4.9 times more likely to attempt suicide and 19.1 times more likely to die by suicide compared to controls.” *Id.* (citing Dhejne, *supra*).

## **ARGUMENT**

While it is typical in briefing a preliminary injunction motion to begin with the likelihood of success on the merits, this is a case in the mold of *Winter v. NRDC*, 555 U.S. 7, 14 (2008), which held that a preliminary injunction against a governmental program could be rejected *solely* on the basis of the interests supporting that program, apart from consideration of the underlying merits. Although, as explained below in Section IV, the United States has failed to establish a likelihood of ultimate success on any of its claims, this Court can properly deny the United States’ motion for preliminary injunction based solely on the compelling governmental interests that support Part I of the Act, interests that would be seriously compromised if the United States’ motion were granted. That conclusion is established below in Section I, followed by a rebuttal of the United States’ arguments on irreparable injury (Section II) and the public interest (Section III).

**I. By suspending Part I of the Act, a preliminary injunction would compromise compelling governmental interests and thereby inflict irreparable injury on North Carolina and its citizens, especially women and girls.**

In its brief, the United States asserts that, “prior to the passage of H.B. 2, Defendants had not cited any harms, financial or otherwise, associated with permitting

transgender people access to bathrooms and changing facilities consistent with their gender identity.” Mem. at 62. That assertion is false. For one thing, the United States ignores the very real and irreparable harm to the people of North Carolina that formed one of the bases for enactment of the Act *and* for the Supreme Court’s issuance of the stay in the *G.G.* case—that is, the ability of the people of a sovereign State to decide for themselves important policy questions such as who may be allowed to enter women-only facilities. As shown below, moreover, many members of the General Assembly—as well as Governor McCrory—cited concerns about safety and privacy, and especially of North Carolina’s women and girls.

Those concerns find ample justification in dozens of examples from around the Nation in which biological males—not people with gender identity issues—have entered women-only facilities and violated the safety and privacy of the girls or women attempting to use them. *See* Ex. C to Lanning Decl. (Ex. M) (table referenced by Defendants’ experts). Those concerns, moreover, find ample support in the analysis and opinions of two law-enforcement officials—former FBI sex crimes expert Kenneth Lanning and former Knoxville Tennessee Sheriff Tim Hutchison—and several sex-crime victims and others whose declarations have been submitted with this brief. Their analyses and experiences confirm that a preliminary injunction would put North Carolina women and girls at risk of having their privacy and safety compromised by biological males using those facilities for various forms of improper sexual gratification.

**A. A preliminary injunction would subject the people of North Carolina—and especially women and girls—to serious safety and privacy risks addressed by Part I of the Act.**

As the Act’s legislative history suggests—and Defendants’ expert and fact witnesses overwhelmingly confirm—Part I was designed to protect women and children from risks that would be created if governmental bodies *not* covered by Part II (such as state agencies and local schools) changed their facility policies in the manner that the United States seeks here, as well as risks arising from changing social customs toward women-only facilities. *See* Lanning ¶¶ 61-65; Hutchison Decl. (Ex. N) ¶¶ 28-29. And from a law enforcement standpoint, the heart of Part I is its establishment of a clear, *objective* standard for determining when someone will be recognized under state law as a male-to-female transgender, and therefore who may and may not enter women-only facilities. A clear, objective standard is an essential element of any law enforcement system capable of protecting women and girls from a variety of sex crimes that would invade their privacy and put their safety at risk. Lanning ¶¶ 67-71; Hutchinson ¶¶ 50-53. By suspending that objective standard, a preliminary injunction would make it more difficult for law enforcement officials throughout the State to enforce a variety of sex crime statutes in women-only facilities, thereby reintroducing the very risks to privacy and safety the Act sought to abate.

In discussing and debating the Act, several legislators defended Part I’s common-sense line based on biological sex as necessary to preserve women’s and girls’ privacy

and safety in intimate spaces such as showers, bathrooms and locker rooms.<sup>28</sup> For example, Senator Berger referred to the story of a Seattle man who twice entered a female locker room and took off his shirt—citing as justification a new Seattle law allowing people to use bathrooms on the basis of “gender identity.” Ex. F at 29-30. A news article about this story explains that “[n]o one was arrested in this case and police weren’t called, even though the man returned a second time while young girls were changing for swim practice.”<sup>29</sup> As Representative Arp explained, when a man undresses in front of a woman or girl who is changing clothes in a women-only facility (as happened in Seattle), that is an unacceptable violation of the woman or girl’s privacy. Ex. E at 46.

The General Assembly also relied on court cases recognizing the strong privacy interests in avoiding having people of the opposite biological sex view one’s body. For example, Representative Arp pointed out that “courts have recognized a constitutional violation where guards regularly watch inmates of the opposite sex who were engaged in ... undressing, using toilet facilities or showering. So [absent the Act], prisoners actually have more privacy than ... seven-year-old girls. Prisoners.” Ex. E at 47.<sup>30</sup> Members of the General Assembly also expressed concern, not only about potential invasions of

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<sup>28</sup> See, Ex. D at 3 (Rep. Stam) (noting “this is a common sense bill that protects the privacy expectations of our citizens”); Ex. D at 85 (Rep. Martin) (“It’s common sense. It protects the privacy for every citizen in this state, and that” important.”); Ex. F at 15-16 (Sen. Newton) (“And that common sense tells us that men don’t belong in the ladies’ bathroom. It’s a matter of public safety.”).

<sup>29</sup> Alison Morrow, *Man in women's locker room cites gender rule*, King 5 News, available at: <http://www.king5.com/news/local/seattle/man-in-womens-locker-room-cites-gender-rule/65533111>.

<sup>30</sup> Presumably, Representative Arp was referring to *Faulkner v. Jones*, which held that prisoners have a right to privacy based on “society’s undisputed approval of separate public restrooms for men and women based on privacy concerns” 10 F.3d 226, 232 (4th Cir. 1993).

privacy absent the Act, but also potential sex crimes committed in women-only facilities. Rep. McCraft, for example, emphasized that, “as a mother and a grandmother of a fourteen-year-old grandchild, this is about common sense. This is about protecting, not from a transgender [person] … but from a predator.” Ex. E at 114.

In short, there can be no doubt that members of the General Assembly enacted Part I of HB2 out of a desire to protect North Carolina women and girls from both violations of their privacy and from non-transgender sexual predators. And the evidence submitted with the present brief amply confirms the legitimacy of those concerns—and the risks to women and girls that an order enjoining Part I would create.

As explained by Lanning and Hutchison, gender-identity-based access policies, or “GIBAPs” for short, are policies or social customs that allow biological men to enter women-only facilities based on their asserted “gender identity,” that is, their “internal sense” of being a female. Lanning ¶ 66; Hutchison ¶ 38. Whether adopted by governments, private institutions or social convention, GIBAPs “create real and significant public safety and privacy risks” in jurisdictions and institutions that adopt them. Hutchison ¶ 1. This threat does not arise from genuinely gender dysphoric individuals, but from the reality these rules will “increase the ability” of male sex offenders to perpetrate various kinds of sex offenses against women. Lanning ¶ 20; *see also* Hutchison ¶¶ 7-8. These offenses will range from so-called “nuisance” offenses like peeping and indecent exposure—which are themselves serious intrusions into privacy—to violent sexual assaults. Hutchison ¶ 24; Lanning ¶¶ 29-30. And “the risk of such sex

offenses,” already disturbingly common, is likely to increase whenever a GIBAP is implemented. Lanning ¶ 52; Hutchison ¶ 13.

In short, GIBAPs present a public safety perfect storm. On the one hand, “allowing a man, based only on his claim to be [a] transgendered woman, to have unlimited access to women’s rest rooms, locker rooms, changing rooms, showers, etc. will make it easier for the type of sex offense behavior previously described to happen to more women and children.” Lanning ¶ 44; *see also* Hutchison ¶ 22. Under a GIBAP, the male sex offender can more easily access a women’s restroom, changing room, or locker room while maintaining plausible deniability regarding their actual purpose. Lanning ¶ 63; *see also* Hutchison ¶ 14. GIBAPs also make it easier for a sex offender to use a crossdressing disguise to access women’s public facilities without being reported. Lanning at 43; *see also* Hutchison ¶ 40. And GIBAPs make it easier for an offender to access such facilities *without* crossdressing because those policies, by definition, are tied to an “internal sense” of gender rather than outward appearance. Lanning ¶ 66; *see also* Hutchison ¶ 38.

On the other hand, and for similar reasons, GIBAPS decrease victims’, law enforcement officers’, and prosecutors’ incentives to report, investigate, and prosecute the resulting offenses. Lanning ¶¶ 50, 74; Hutchison ¶ 26-28, 50. They undermine the ability of all three groups to understand clearly “who is and who is not legally authorized to use public facilities designated for women and girls.” Lanning ¶ 77; *see also* Hutchison ¶¶ 28-29. Because of that uncertainty, sex offenders—even those seeking to commit serious offenses—will be able to take advantage of potential victims’ or

witnesses' fears of being identified as bigoted or prejudiced. Lanning ¶ 50; *see also* Hutchison ¶¶ 28, 51. Thus, with a GIBAP or similar social custom in place, those potential victims and witnesses will be less likely to sound the alarm or take preventive measures when they see suspicious activity. Hutchison ¶¶ 28, 51; *see also* Lanning ¶ 50.

Other witnesses whose declarations are included in the present submission confirm the well-founded fear and apprehension created by GIBAPs, including the Charlotte ordinance discussed earlier:

- The mother of children in the Charlotte-Mecklenburg school system testified that her children grew "anxious," "uncomfortable," and "embarrassed" at the thought of possibly having to undress in front of members of the opposite sex at school. She has transferred one of her children to a school that does not follow the Charlotte-Mecklenburg policy and is seeking to do the same for her other children. Y.K. Decl. (Ex. O) ¶¶ 4-16.
- A young woman put it this way to her mother: "D.H. is anxious and uncomfortable at the thought of undressing in front of a member of the opposite sex, or being exposed to an undressed member of the opposite sex, regardless of whether that person professes a different gender identity." D.H. Decl. (NC Parent) (Ex. P) ¶ 7.
- Another teenage girl noted that, if "a boy or a man can access the girls' facilities by just professing a female identity, [] that would allow them to take advantage of the school's policies in order to see me and my friends as we have to undress for school classes. They could take pictures of us with their phones and then post them to the internet." S.H. Decl. (Ex. Q) ¶ 12.
- A business owner noted his fear that the Charlotte ordinance would have harmed his business by "jeopardiz[ing] the privacy of" his employees. Gallagher Decl. (Ex. R) ¶ 13(e). Observing that he felt "obligated ... to protect his employees," he suggested he would have considered moving his business rather than comply with that ordinance. *Id.* ¶¶ 13(d), 13(f).

These fears are even more pronounced for victims of sexual abuse: One foster parent noted that her abused daughters view "male anatomy [as] a weapon by which they were assaulted." S.B. Decl. (Ex. S) ¶ 14.

These fears and other emotional problems are exacerbated by the steady drumbeat of media accounts of such incidents as they occur around the country—like the incidents referenced in the legislative history above.<sup>31</sup> Indeed, Defendants’ experts have identified dozens of reports of biological males invading the privacy and, in some cases, physically assaulting women and girls in restrooms and changing facilities. Ex. C to Lanning Decl. (cataloging numerous analogous events). Many of those events, moreover, involved GIBAPs of one kind or another—thereby giving the lie to the United States’ suggestion that “there is no evidence” that any U.S. jurisdiction that has “allowed transgender women to use bathroom and changing facilities that correspond with their gender identity—have … confronted a public safety problem as a result …” Mem. at 49. Indeed, as explained above, the legislative history explicitly relied on an actual incident of a man who exposed himself to women and girls inside a locker room, based on a policy similar to the one the United States seeks to foist on North Carolina in this case.<sup>32</sup>

As Defendants’ experts also attest, Part I of the Act was a reasonable and wise response, not just to the Charlotte GIBAP, but also to the increasingly common social convention allowing people claiming or creating the appearance of being transgender to enter facilities designated for the opposite biological sex. Lanning ¶ 50. Part II of the

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<sup>31</sup> See, e.g. Alison Morrow, *Man in women's locker room cites gender rule*, King 5 News, available at: <http://www.king5.com/news/local/seattle/man-in-womens-locker-room-cites-gender-rule/65533111>, discussed *supra*.

<sup>32</sup> The United States also suggests that administrators could—at their discretion—accommodate those who object to the DOJ/DOE rule by providing alternate single-sex facilities. Mem. at 51. But such accommodations are discretionary, and thus cannot resolve all the privacy interests at stake—particularly in contexts such as where administrators may not understand the strength of the objection or when the facility’s design may make single-stalled accommodations not practical. Cf. S.B. ¶ 25 (“When I voiced my strong objections to this, I was again told that my concerns were not a big deal.”); R.F. Decl. (Ex. T) (highlighting issues that are faced at a state-run high school that is a boarding school).

Act would of course preemptively invalidate any local ordinances similar to the Charlotte Ordinance that provoked the controversy in the first place. But Part I was still needed to preempt any GIBAPs that might be adopted by other governmental agencies in the State, including State agencies and local schools. Lanning ¶¶ 64-65; *see also* Hutchison ¶¶ 44, 47, 50.

As noted previously, moreover, the heart of Part I is its articulation of a clear, objective criterion for determining who is entitled to be recognized as a female for purpose of entering facilities designated for women and girls. In providing such an objective criterion, Part I is similar to policies adopted by a number of other federal agencies as well as several other organizations that are (appropriately) concerned about the rights of transgender individuals. *See* Hutchison ¶¶ 52-53; Lanning ¶¶ 69-70. For example, Part I is similar in principle to the U.S. Department of Defense policy that, to be recognized as having changed sex, a military person must have a certification by a licensed medical provider that the subject has had a stable gender identity, without clinically significant distress or impairment, for 18 months. Lanning ¶¶ 69, 73.

Ironically, Part I is also similar in principle to the standard applied by the NCAA—the home of the United States’ witness Ms. Carroll—in determining when transgender individuals will be allowed to compete on teams consistent with their gender identity. *See* Carroll Decl. (USA Ex. 42) ¶ 15. Indeed, the NCAA policy is much more similar to the Act than to the United States’ proposed policy, because it requires athletes to gain “a doctor’s certification” and “hormone therapy” before the athlete will be allowed to play on a team with the opposite gender. Lanning ¶71. The NCAA policy

thus relies on a “an objective standard for determining who will be recognized as having transitioned from a man to a woman”—a policy like the Act and unlike the policy that the United States is seeking to have imposed on North Carolina and its people. Lanning ¶ 71.

By adopting an objective criterion for who may and may not enter women-only facilities, Part I also makes clear that security officers, employees and bystanders have the right to keep obviously biological males out of facilities designated for females, thereby reducing the likelihood of sex crimes—including violent sex crimes--committed in those facilities. Lanning ¶ 77; Hutchison ¶ 38. Part I also “sends a clear message to society” about what is unlawful in public facilities designated for women and girls, and accordingly what kinds of activities should be reported to law enforcement officials. Lanning ¶ 77; *see also* Hutchison ¶¶ 37-39. In so doing, Part I also helps victims of “nuisance” sex crimes know when they have been victims, which in turn encourages more reporting of such crimes. Lanning ¶¶ 53-55, 75; Hutchison ¶¶ 24-28. And in all of these ways, Part I and similar policies protect women’s and girls’ legitimate rights to privacy *and* safety. Lanning ¶ 64; Hutchison ¶¶ 54-57.

Consequently, an order enjoining Part I would remove these substantial protections for privacy and safety and, in the process, likely lead to additional sex crimes committed against women and girls in publicly owned women-only facilities throughout the State. Lanning ¶ 22; Hutchison ¶ 2 (noting that laws and policies like the United States’ proposed policy “increase the risk of the full range of sex offenses in and near public facilities, from relatively minor offenses like peeping and indecent exposure to major offenses like forcible rape.”) It is nothing short of astonishing that an arm of the

United States government would seek to foist such an irresponsible policy on North Carolina and its people.

Indeed, although the United States was obviously aware of the General Assembly's view that Part I was necessary to protect public safety and privacy in women-only facilities, the United States has offered no evidence remotely rebutting the public safety and privacy rationales underlying that provision. Instead, the United States relies upon anecdotal testimony by two people who do not even purport to have expertise in public safety—an NCAA official (Ms. Carroll) and a former California school official (Ms. Adams). *See* Adams Decl. (USA Ex. 38); Carroll Decl. (USA Ex. 42). Neither witness even attempts to address the substantial safety and privacy risks that arise from *non-transgender* male sex offenders using GIBAPs to enable sex crimes—from voyeurism to exhibitionism to sexual assaults—in women-only facilities. Nor do they address the right of biological females to not see the genitals of biological males—even when going to and from any single-sex stalls that facilities may offer. Those were obviously the concerns that animated the General Assembly in adopting Part II, and the United States' attempt to change the subject rather than address *those* concerns reinforces the United States' utter inability to challenge HB2 on its own merits.

The United States' only other argument is an attempt to second-guess North Carolina's own lawmakers on the adequacy of pre-existing laws—such as those dealing with sexual assault, peeping, indecent exposure or trespass—to address the concerns on which the Act was based. Specifically, the United States suggests that the “behavior [of sex offenders] is illegal regardless of the existence or non- existence of H.B. 2.” Mem. at

49. But that facile response confuses the state's ability to punish *completed* crimes with its desire to prevent and deter *future* crimes. The fact that an individual has been convicted is cold comfort to those who must live with the consequences of sexual assault or other sex crimes. *See, e.g.*, S.B. Decl. (Ex. S) ¶¶ 6, 13-16 (stating that two of her foster children "have been the victims of unspeakable sexual abuse" and consequently would be traumatized by encountering any biological male in a restroom or locker room).

While North Carolina obviously punishes individuals who are convicted of sexual assault or other sex crimes, Part I is particularly valuable as a law enforcement tool because it enables identification, apprehension and deterrence of potential sex offenders *before* the offense occurs. As Defendants' experts explain at some length, "current laws are not up to the task of preventing or prosecuting many of the sex offenses—especially so-called 'nuisance' offenses—that will likely result from adoption" of policies like the one the United States seeks to impose on North Carolina through its present motion. Lanning ¶ 53. Sex offenses both minor and major are already woefully underreported, and those offenses that are reported *already* have low investigation, charging, and conviction rates. Lanning ¶ 53; Hutchison ¶¶ 23-25.

As in many other contexts, moreover, sex-offense-related public safety depends upon a combination of detection, disclosure and deterrence. Lanning ¶¶ 53, 75; Hutchison ¶¶ 23-25. But a GIBAP, such as the one the United States seeks here in attempting to enjoin Part I, reduces all three of these elements. It reduces detection of minor sex offenses in public facilities by reducing victims' confidence that an offense has actually occurred. Lanning ¶ 56; Hutchison ¶ 43. It also reduces disclosure of all such

offenses both by reducing detection, and by discouraging the victim from reporting for fear of stigmatization as a bigot. Lanning ¶ 50; Hutchison ¶¶ 28-29. And it reduces deterrence of sex offences also by decreasing law enforcement incentives to investigate and prosecute. This is partly a function of law enforcement fears of public criticism, but is largely driven by the near-impossibility of proving—especially with a GIBAP in place—the unlawful intent necessary to secure convictions under trespass, peeping, or indecent exposure laws. Lanning ¶ 49; Hutchison ¶¶ 37-42.<sup>33</sup>

Moreover, while a GIBAP may not deter investigation or charging of completed *major* sex offenses in public facilities, it will reduce overall deterrence of such crimes by reducing victims' and witnesses' willingness and ability to take preventive action when concerned about suspicious activity. Lanning ¶ 50; Hutchison ¶¶ 2, 28, 51. And a GIBAP will make it more difficult for an employee, law enforcement official or even a bystander to intervene when someone who is obviously male enters a female facility under circumstances that seem suspicious. In that way alone, any GIBAP—including the preliminary injunction sought by the United States here—will increase the risk of sex-related crimes of all types, including violent rape. Hutchison ¶ 2.

To sum up, as Agent Lanning explains in his report: “Allowing a man to use [a] woman’s rest room, locker room, dressing room, shower, or dormitory room simply because he says he feels like a woman would seem to be reckless, to ignore thousands of years of human experience, and to ignore potential criminal activity.” Lanning ¶ 37. But

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<sup>33</sup> The NC trespass, indecent exposure, and peeping statutes contain intent-related elements that would make prosecution of a public facility offense almost impossible if a GIBAP were in place. Lanning ¶¶ 57-60 (citing N.C. Gen Stat. §§ 14-190.9, 14-202, 14-159.12).

remarkably, in seeking to enjoin Part I, that is exactly what the United States is asking this Court to do. The United States' motion could well be denied for that reason alone. *See Winter*, 555 U.S. at 23-24.

**B. For as long as it remains in force, a preliminary injunction would deny the people of North Carolina the opportunity to govern themselves on an important issue of privacy and public safety.**

A preliminary injunction would also injure North Carolina and its citizens by depriving them of the ability to "govern themselves" on this sensitive and important issue. Indeed, this was one of the key points made by the Gloucester County School Board in its Supreme Court stay application. The Board noted that the Supreme Court has long held that "[a]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury." Stay App. at 34 n. 15 (quoting *Maryland v. King*, 133 S. Ct. 1, 3 (2012) (Roberts, C.J., in chambers)). The School Board repeatedly emphasized this principle in its briefing, noting for example in its reply brief that the Fourth Circuit's decision "deprives the *people* of Gloucester County of their ability, acting through elected school board representatives, to establish a policy on one of the most sensitive matters imaginable—who may access single-sex student bathrooms." Reply at 1 (emphasis added). And G.G.—represented by the ACLU—could not and did not dispute that conclusion. *See id.*

The same is true here: A preliminary injunction enjoining application of any portion of the Act would likewise deprive North Carolina and its people of their right, through their elected representatives, to establish policies on the sensitive issue of who may access publicly owned bathrooms, locker rooms and showers designated for women

and girls. And that deprivation, standing alone, would constitute irreparable injury during whatever period the injunction remains in place. *See Maryland v. King, supra*, at 3 (quoting *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977) (Rehnquist, J., in chambers)).

In short, the Supreme Court's recall and stay in *G.G.* reaffirms that any preliminary injunction in this case would represent a serious intrusion into the right of North Carolina's people to govern themselves, through their elected representatives, and would for that reason alone constitute irreparable injury. Under *Winter*, that harm—especially when combined with the harm to the State's interest in protecting the safety and privacy of women and girls—requires denial of the United States' motion.

**II. The United States has failed to establish that continued operation of Part I would impose irreparable injury on itself or others – and certainly not enough to outweigh the irreparable harm an injunction would inflict.**

Nor has the United States made the showing, required by *Winter*, that allowing Part I to remain in force during the pendency of this case would inflict irreparable injury on the United States or others. *Winter*, 555 U.S. at 24; *see also Matter of U.S. Brass Corp.*, 110 F.3d 1261, 1267 (7th Cir. 1997) (“The ‘black letter’ rule is that an applicant for equitable relief has no right to such relief, but merely a right to appeal to the equitable discretion of the judge.”). As shown below, even the United States is required to demonstrate concrete irreparable harm, which it has utterly failed to establish here.

**A. Even the United States must demonstrate concrete irreparable harm if it is to obtain a preliminary injunction.**

To support its faulty assertion that violation of a federal civil right statute is itself “irreparable harm as a matter of law” warranting entry of a preliminary injunction, the

United States cites several cases—all but one of which predate *Winter*.<sup>34</sup> In light of that decision, however, there can no longer be any doubt that “a presumption of irreparable harm that functions as an automatic or general grant of an injunction is inconsistent with the[] principles of equity” that govern issuance of a preliminary injunction. *Ferring Pharm., Inc. v. Watson Pharm., Inc.*, 765 F.3d 205, 217 (3d Cir. 2014); *accord Bethesda Softworks, LLC v. Interplay Entm’t Corp.*, 452 F. App’x 351, 354-55 (4th Cir. 2011) (holding precedent recognizing a presumption of irreparable harm was no longer valid because “courts are to apply the ‘well-established principles of equity’ and grant injunctive relief only after a plaintiff satisfies the traditional four-factor test”).<sup>35</sup> Any presumption of irreparable harm would therefore violate *Winter*.

Furthermore, it is simply incorrect to assert, as the United States does, that “the Court may find irreparable harm without any further factual injury.” Mem. at 53. The pre-*Winter* cases cited by the United States tend only to support the proposition that finding a violation of the law gives rise to a *presumption* of irreparable harm. That presumption, however, can always be rebutted. *See, e.g., Gresham v. Windrush Partners, Ltd.*, 730 F.2d 1417, 1423-24 (11th Cir. 1984) (“A presumption, as used in a case such as this, is merely an evidentiary technique . . . [and] may, of course, be rebutted by evidence

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<sup>34</sup> The sole post-*Winter* authority cited by the United States is the decision of a single district court that entered a limited preliminary injunction actually allowing the defendants to resume the challenged activity, provided certain procedures were observed. *Doe v. Wood Cnty. Bd. of Educ.*, 888 F. Supp. 2d 771, 773 (S.D. W.Va. 2012).

<sup>35</sup> Other circuits have reached a similar conclusion. *See Herb Reed Enters., LLC v. Fla. Entm’t Mgmt., Inc.*, 736 F.3d 1239, 1249 (9th Cir. 2013) (“*Winter*’s admonition that irreparable harm must be shown to be likely in the absence of a preliminary injunction also forecloses the presumption of irreparable harm here.”); *Flexible Lifeline Sys., Inc. v. Precision Lift, Inc.*, 654 F.3d 989, 998 (9th Cir. 2011) (overturning circuit precedent because the Supreme Court has made clear that “the plaintiff must demonstrate a likelihood of irreparable harm as a prerequisite for injunctive relief, whether preliminary or permanent”).

that any injury that may occur is not irreparable.”). Accordingly, a factual inquiry is still required before a finding of irreparable injury can be made.

**B. The facts fail to establish that irreparable harm would likely result if the Court declined to enter a preliminary injunction.**

When the facts before this Court are examined, it is clear that Part I of the Act creates little if any risk of irreparable injury. First, it is notable that the United States spends a great deal of time in its memorandum discussing transgender individuals’ fear of verbal and physical attacks from third parties, not from the State or its instrumentalities. *See* Mem. at 55-58. The United States, however, undertakes no effort to explain how this illegal conduct is fairly attributable to Part I or how enjoining it would remedy that conduct. The State of North Carolina has myriad laws that proscribe threatening and assaulting others, *see, e.g.*, N.C. Gen. Stat. § 14-33 (criminalizing various assaults), and there is no allegation here that the State has refused to enforce these laws to protect the transgender individuals in question. To the contrary, the declarants who indicate being afraid for their safety at various times have apparently made no report to law enforcement so that appropriate action could be taken. *See* Mem. at 56-57. Since Part I obviously does not encourage or even enable such illegal third-party conduct, it is mystifying how it could be used as a basis to invalidate the Act. *See, e.g., Lamb-Weston, Inc. v. McCain Foods, Ltd.*, 941 F.2d 970, 974 (9th Cir. 1991) (“Injunctive relief . . . must be tailored to remedy the specific harm alleged.”).

To the contrary, the declarations submitted by the United States actually point to the need for Part I. If Part I were invalidated in the manner the United States seeks, then *any* male could use any women-only restroom, locker room, shower, or similar facility

simply by *claiming* to be transgender.<sup>36</sup> Yet this is the very situation many of the United States' declarants purport to fear—that is, being assaulted in those kinds of facilities. *See Mem.* at 55-56. What precisely it would take to alleviate these individuals' fears is not clear, but it is certainly not the injunction the United States seeks on their behalf.

Moreover, although the United States claims that some transgender individuals are allegedly “avoiding bathroom usage,” *see Mem.* at 59-60, this conduct is not a reasonable response to Part I. Under the Act, a transgender individual is fully capable of using the restroom or other facility that corresponds with his or her biological sex. Governor McCrory’s Executive Order 93 further mandates that state government make single-use facilities available whenever possible. EO 93 § 3. The Act, therefore, is not the true cause of any individual’s aversion to bathroom use. Avoiding bathroom use to the extent it becomes a medical problem is an unreasonable response that cannot be used to support enjoining the Act. Accordingly, the United States has failed to demonstrate any “clear and present need for equitable relief to prevent irreparable harm.” *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290 (D.C. Cir. 2006) (internal quotation marks and citation omitted).

The United States is also mistaken in suggesting that treatment for gender dysphoria necessarily entails using the restroom that matches the individual’s gender identity. As described above, *see supra*, the available medical and scientific evidence does not support the conclusion that gender “transitioning” effectively addresses gender dysphoria in either adults or children. *See, e.g.*, Hruz ¶¶ 37-38. Indeed, the evidence

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<sup>36</sup> Such invalidation would also mean that most private employers would violate Title VII when separating men’s and women’s facilities just as would every educational institution covered by Title IX.

shows that the vast majority of children with gender dysphoria identify with their biological sex by late adolescence, regardless of which bathrooms they use. Hruz ¶ 25. This leaves the evidence inconclusive, at best, for the United States' prescribed treatment, which thus cannot carry the burden of showing that irreparable harm is likely in the absence of a preliminary injunction. *See The Real Truth About Obama, Inc. v. FEC*, 575 F.3d 342, 346-47 (4th Cir. 2009) (“[T]he Court in *Winter* rejected a standard that allowed the plaintiff to demonstrate only a ‘possibility’ of irreparable harm[.]”), *vacated on other grounds*, 559 U.S. 1089 (2010), *reissued*, 607 F.3d 355 (2010). Here again, the United States' request for a preliminary injunction fails on this ground alone.

Finally, as Defendants' experts have testified, and as explained above, anyone attempting to “transition” to a gender different from their chromosomes and original anatomy will likely face substantial psychological problems no matter what policies North Carolina adopts. *See supra*. Indeed, the evidence before the Court establishes that gender dysphoria often overlaps with other disorders.<sup>37</sup> At best, it is a complex and difficult task to disentangle harms occasioned by a state policy from underlying psychological issues.<sup>38</sup> Because “irreparable injury” must be “likely in the *absence* of an injunction,” *Winter*, 555 U.S. at 22 (emphasis added), and because the United States cannot show that the harms it asserts are really traceable to the Act, the requested relief must be denied for this reason as well.

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<sup>37</sup> See, e.g., Heyer ¶ 30 (“It was clear my co-existing psychological disorder should have been treated prior to any hormones or gender surgery.”); Josephson ¶ 33 (noting problems such as depression and anxiety).

<sup>38</sup> For example, Plaintiff's witness Stephanie Paige Dula suggests that even though she uses and desires to use the bathroom consistent with her birth certificate, she is afraid she will be asked to prove her legal gender while doing so. Dula Decl. ¶ 9 (USA Ex. 32).

In short, under *Winter*, the United States’ failure to establish any concrete irreparable injury resulting from Part I is independently fatal to the United States’ argument for enjoining that portion of the Act.

**C. Any harms identified by the United States are outweighed by potential harms of a preliminary injunction to the State and its citizens.**

The recall and stay in *G.G.* also establish that the States’ weighty interests in preserving Part I outweigh any countervailing interests asserted by the United States. In their reply brief in support of the recall stay in *G.G.*, the School Board noted that the student there had asserted “painful urinary tract infections and daily psychological harm as a result of the Board’s policy.” Reply at 14. In response to these claims, the Board noted that, “[w]hile the Board does not minimize G.G.’s psychological pain, that pain is assuredly not the ‘result of the Board’s policy.’ Any anatomical female wishing or attempting to live as a teenage boy is bound to face a variety of psychological challenges, whatever policy the Board adopts.” *Id.* In granting the Board’s stay request, the Court apparently determined that any harm potentially caused by the School Board’s policy was outweighed by the harms to the Board and its students.

So too here. As explained above, the harms that the United States claims result from the Act are speculative at best, and their causal link to the Act is even more speculative. But even if the United States had established some irreparable injury traceable to Part I of the Act, the *G.G.* stay establishes that any such harms are more than outweighed by the powerful State interests supporting that provision. For that reason too, the United States’ motion must fail.

In sum, North Carolina and its people have an even stronger interest in preserving the status quo, including continued operation of Part I, than the School Board in *G.G.* did. Thus, granting the United States' request to enjoin Part I would fly in the face of the Supreme Court's extraordinary action in halting *G.G.*—and the resulting preliminary injunction—in its tracks.

**III. The United States has failed to establish that a preliminary injunction would protect or advance the public interest.**

North Carolina's powerful interest in protecting the privacy and safety of its female citizens also controls the analysis of the public interest.

Indeed, in seeking a stay in *G.G.*, the School Board there likewise emphasized that the main purpose of its bathroom policy was to “accommodate the need for privacy and safety of *all* students,” and thus that the preliminary injunction entered in that case was contrary to the public interest. Stay App. at 33; Reply at 12-15. In so doing, the School Board relied extensively upon Judge Niemeyer’s thoughtful dissenting opinion in *G.G.*, which concluded (among other things) that the preliminary injunction ordered by the majority there created irreparable harm by intruding upon students’ “legitimate and important interest in bodily privacy.” Reply at 12 (citing *G.G.*, 822 F.3d at 734 (Niemeyer, J., dissenting)). And it is a fair inference that the Supreme Court was moved by similar concerns in granting the stay in *G.G.*.

These public interest concerns counsel even more strongly against a preliminary injunction here. As explained above, such a preliminary injunction would impinge upon the privacy and safety, not just of students in a single school, but of *all* North Carolinians whenever they use any public facilities—not only in schools throughout the State, but

also in courthouses, administrative buildings, prisons and rest stops. *Cf. Doe v. Luzerne Cnty.*, 660 F.3d 169, 176-77 (3d Cir. 2011) (recognizing individual’s “constitutionally protected privacy interest in his or her partially clothed body,” “particularly while in the presence of members of the opposite sex”). Just as that consideration compelled a stay in *G.G.*, all the more does it compel denial of a preliminary injunction here.

This case is also a poor candidate for a preliminary injunction in light of the principle that a district court—especially at the preliminary injunction stage—should only “sparingly use its awesome powers to ignore or brush aside long-standing state . . . statutes[] and practices.” *Chisom v. Roemer*, 853 F.2d 1186, 1189 (5th Cir. 1988); *accord Faulkner v. Jones*, 10 F.3d 226, 242 (4th Cir. 1993) (Hamilton, J., dissenting) (noting that the public interest is protected when courts are cautious about overturning state law). This is an especially important consideration where, as here, the injunction seeks to upset the current status quo. *See, e.g., United States ex rel. Rahman v. Oncology Assocs.*, 198 F.3d 489, 492 (4th Cir. 1999) (noting with approval district court holding that “to serve the public interest, the status quo should be maintained during the pendency of proceedings”).

Given the breadth of state practices this case affects—practices at locations ranging from elementary schools to prisons, from courthouses to libraries—the public interest weighs against preliminary relief here. And it is clear that the status quo prior to the Act and the Charlotte Ordinance was one in which state trespass law clearly forbade biological males from entering female-only facilities. This status quo should be preserved

at this early stage of this litigation, and it can only be preserved if Part I of the Act remains in force.

The United States nevertheless cites three cases for the proposition that it is in the public interest to use preliminary injunctions to enforce federal laws. *See* Mem. at 46 (*citing Gen. Tel. Co. of the Nw. v. Equal Employment Opportunity Comm'n*, 446 U.S. 318, 326 (1980) (enforcement proceeding against one employer); *Cohen v. Brown Univ.*, 991 F.2d 888, 906 (1st Cir. 1993) (enforcement proceedings against one school); *Doe v. Wood County Bd. Of Educ.*, 888 F.Supp.2d 771, 778 (S.D. W. Va. 2012) (same)). But this precedent is inapplicable here for three reasons.

First, none of these cases involved countervailing privacy or safety interests. Rather, they concerned sex discrimination in employment and similar contexts, not in contexts fraught with public safety and privacy concerns. *See Gen. Tel.*, 446 U.S. at 321 (involving issues such as maternity leave and discriminatory hiring practices); *Cohen*, 991 F.2d at 892-94 (involving equal opportunity for collegiate athletics), *Doe*, 888 F.Supp.2d at 773-74 (involving under what conditions single-sex classrooms comply with Title IX).

Second, these cases all involved a single entity or agency, not an entire state and all of its instrumentalities. The breadth of the United States' proposed preliminary injunction obviously weighs against issuance, especially when it would require an entire state to change its policies.

Third, the stay of the preliminary injunction in *G.G.* strongly suggests that the Supreme Court wishes to allow state and local governments to retain their traditional

authority over policies related to restrooms and similar facilities while that Court considers the legal issues presented in *G.G.* That public interest consideration also weighs heavily against an injunction here.

In short, the stay in *G.G.* combined with the sweeping consequences of a preliminary injunction in this case show that the preliminary injunction should not be granted here. There simply is no good reason, even preliminarily, to override the General Assembly’s considered judgment about how best to protect in the setting of restrooms, changing rooms, and shower facilities the privacy and safety interests of all North Carolinians, especially women and girls.

**IV. The United States has failed to establish any likelihood of success on any of its legal claims.**

**A. The United States’ Title IX claim lacks merit.**

As the United States acknowledges, longstanding Title IX regulations expressly allow “separate toilet, locker room, and shower facilities on the basis of sex.” Mem. at 12 (quoting 28 C.F.R. § 54.410; 34 C.F.R. § 106.33). Nonetheless, the United States claims those regulations “do not address” the treatment of transgender persons in sex-separated facilities; that agencies’ “[i]nterpretive guidance” requires recipients to “treat transgender individuals consistent with their gender identity” with respect to accessing those facilities; and, finally, that this guidance is entitled to “controlling” deference under the Fourth Circuit’s in *G.G. v. Gloucester County School Board*, 822 F.3d 709 (4th Cir. 2016), *reh’g en banc denied*, 2016 U.S. App. LEXIS 9909 (4th Cir. May 31, 2016), *recall and stay of mandate granted*, 2016 U.S. LEXIS 4361 (U.S. Aug. 3, 2016) (No. 16A52). Mem. at 12-15. Indeed, the United States claims that *G.G.* “dictates” and

“ensures” success on its Title IX claim, and that “this conclusion is underscored by the decision of the *Gloucester* district court on remand to summarily issue a preliminary injunction preventing the Gloucester school district from denying the plaintiff access to bathrooms consistent with his gender identity.” *Id.* at 15. The upshot, according to the United States, is that the Act facially violates Title IX by discriminating against persons based on “gender identity.” *Id.* at 13. The United States is mistaken.

**1. *The Act does not discriminate on the basis of “gender identity” but on the basis of “sex,” which Title IX’s regulations expressly allow.***

To begin with the most obvious point, the United States’ premise that the Act discriminates against “transgender” persons or on the basis of “gender identity” is false. On the Act’s face, a person’s ability to use a multi-occupancy bathroom, locker room or shower facility depends, *not* on gender identity, but on “biological sex”—as determined by the person’s birth certificate. H.B. 2 §§ 1.2, 1.3. Accordingly, the face of the Act refutes any notion that it discriminates based on gender identity and, hence, against transgender persons. Moreover, separating the sexes based on anatomical characteristics has always been viewed as consistent with federal law—especially in bathrooms, locker rooms and showers.<sup>39</sup>

This conclusion is particularly evident with respect to Title IX, which both by statute and regulation expressly authorizes the provision of facilities or programs

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<sup>39</sup> See, e.g., *Virginia v. United States*, 518 U.S. 515, 550 n. 19 (1996) (admitting women to VMI “would undoubtedly require alterations necessary to afford members of each sex privacy from the other sex in living arrangements”); *Faulkner v. Jones*, 10 F.3d 226, 232 (4th Cir. 1993) (noting “society’s undisputed approval of separate public restrooms for men and women based on privacy concerns”).

segregated by sex, provided each is comparable for males and females.<sup>40</sup> Most pertinent here, longstanding Title IX regulations issued by the Department of Education in 1975, and reaffirmed in 1980, expressly allow funding recipients to “provide separate toilet, locker room, and shower facilities on the basis of sex,” provided that facilities provided for “students of one sex” are “comparable” to those for “students of the other sex.” 34 C.F.R. § 106.33.

In light of that, the United States is plainly wrong to claim that, by complying with the Act, North Carolina and its officials are “discriminating on the basis of sex” under Title IX. To the contrary, the Act has done what is *authorized* by the most directly applicable Title IX regulation, which allows sex-separated “toilet[s], locker room[s], and shower facilities.” 34 C.F.R. § 106.33.

**2. *Nothing in the Title IX’s text, context, or legislative history suggests that it incorporates “gender identity” as a component of “sex” discrimination.***

In order to circumvent Title IX’s longstanding allowance of sex-separated restrooms, locker rooms, and shower facilities, the United States seeks to alter the meaning of “sex” in Title IX to include the concept of “gender identity.” Mem. at 3. Yet there is no basis in Title IX or its regulations for this legal alchemy. The United States identifies nothing in Title IX’s text, context, or legislative history showing that Title IX

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<sup>40</sup> See, e.g., 20 U.S.C. § 1686 (allowing educational institutions to “maintain[ ] separate living facilities for the different sexes”); 34 C.F.R. § 106.32 (allowing funding recipients to “provide separate housing on the basis of sex,” provide those facilities are “[p]roportionate in quantity” and “comparable in quality and cost”); 34 C.F.R. § 106.34 (allowing “separation of students by sex” within physical education classes and certain sports “the purpose or major activity of which involves bodily contact”).

imports the novel concept of “gender identity” into the familiar concept of “sex” discrimination.

The recent decision in *Johnston v. University of Pittsburgh* should put to rest any notion that Title IX recognizes a claim of “gender identity” discrimination. *See Johnston v. Univ. of Pittsburgh of the Commonwealth Sys. of Higher Educ.*, 97 F.Supp.3d 657 (W.D. Pa. 2015). In dismissing Title IX and equal protection claims by a transgender person denied access to university restrooms and locker rooms consistent with his gender identity, *Johnston* held that “Title IX does not prohibit discrimination on the basis of transgender itself because transgender is not a protected characteristic under the statute.” *Id.* at 674. First, relying on the statutory text the court reasoned that, “[o]n a plain reading of the statute, the term ‘on the basis of sex’ in Title IX means nothing more than male and female, under the traditional binary conception of sex consistent with one’s birth or biological sex.” *Id.* at 676. Second, the court found “particularly compelling that the regulations implementing Title IX explicitly permit educational institutions subject to Title IX to provide separate toilet, locker room, and shower facilities on the basis of sex.” *Id.* at 678 (citing 34 C.F.R. § 106.33). Third, the *Johnston* court observed that “nearly every federal court that has considered the question in the Title VII context has found that transgendered individuals are not a protected class under Title VII.” *Id.* at 674-76.<sup>41</sup>

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<sup>41</sup> The court cited *Etsitty v. Utah Transit Auth.*, 502 F.3d 1215, 1221-22 (10th Cir. 2007) ; *Ulane v. E. Airlines, Inc.*, 742 F.2d 1081, 1084 (7th Cir. 1984); *Sommers v. Budget Mktg., Inc.*, 667 F.2d 748, 750 (8th Cir. 1982); *Lopez v. River Oaks Imaging & Diagnostic Grp., Inc.*, 542 F.Supp.2d 653, 658 (S.D. Tex. 2008); *Sweet v. Mulberry Lutheran Home*, 2003 U.S. Dist. LEXIS 11373, at \*2 (S.D. Ind. June 6, 2003)); *see also*, e.g., *Oiler v. Winn-Dixie Louisiana, Inc.*, 2002 U.S. Dist. LEXIS 17417, at \*5 & n. 59 (E.D. La. Sept. 16, 2002) (collecting decisions); *Rentos v. Oce-Office Sys.*, 1996 U.S. Dist. LEXIS 19060, at \*19-21 (S.D.N.Y. Dec. 23, 1996) (noting that “[e]very federal court that has considered the question has rejected the application of [Title VII] to a transsexual claiming employment discrimination”) (and collecting

Furthermore, as the *Johnston* court correctly observed, “[t]he exclusion of gender identity from the language of Title IX is not an issue for this Court to remedy,” but rather is “within the province of Congress.” 97 F.Supp.3d at 676. Congress is fully capable of enacting laws that incorporate the distinct notion of “gender identity,”<sup>42</sup> as well as laws that distinguishing between the concept of “sex” and “gender” on the one hand and “gender identity” on the other.<sup>43</sup> Ironically, a clear example of the latter is the Violence Against Women Act, which prohibits funding recipients from discriminating “on the basis of actual or perceived race, color, religion, national origin, *sex, gender identity ..., sexual orientation, or disability.*” 42 U.S.C. § 13925(b)(13)(A) (emphases added). As discussed *infra* in I.C., there are many reasons why the Act does not transgress VAWA’s prohibition on “gender identity” discrimination. The point here, however, is that the United States ignores the fact that in VAWA Congress explicitly legislated the concept of

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cases). *Johnston* also rejected the argument that the transgender plaintiff stated a claim for sex stereotyping discrimination under *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989). *Johnston*, 97 F.Supp.3d at 679-82. That aspect of the court’s decision is treated in part I.B, *infra*.

<sup>42</sup> See, e.g., 42 U.S.C. § 13925(a)(39) (defining “underserved populations” due to “geographic location, religion, sexual orientation, *gender identity*” and others); 42 U.S.C. § 3796gg (providing grant assistance for “male and female victims” of various crimes “whose ability to access traditional services and responses is affected by their sexual orientation or gender identity”); 29 U.S.C. § 705(20)(F) (providing that term “individual with a disability” does not cover an individual on the basis of, *inter alia*, “transsexualism”).

<sup>43</sup> See, e.g., 42 U.S.C. § 3716(a)(1)(C) (allowing Attorney General to provide extra support when crime targets protected characteristics such as “gender” or “gender identity”); 20 U.S.C. § 1092(f)(1)(F)(ii) (requiring universities to report crimes when victim targeted based on either “gender” or “gender identity”); 18 U.S.C. § 249(a)(2) (providing criminal penalties for “[o]ffenses involving actual or perceived religion, national origin, *gender, sexual orientation, gender identity, or disability*”); U.S.S.G § 3A1.1(a) (providing sentencing guideline increase if defendant selected person or property as object of offense “because of the actual or perceived race, color, religion, national origin, ethnicity, *gender, gender identity, disability, or sexual orientation of any person*”); Pub. L. 111-84 (2009) (requiring Attorney General to collect data on crimes committed based on both “gender” and “gender identity”) (emphases added).

“gender identity,” whereas in Title IX and Title VII Congress did not. That alone should be fatal to the United States’ Title IX (and Title VII) claims.<sup>44</sup>

Moreover, the United States overlooks the fact that numerous prominent federal bills have unsuccessfully sought to enact anti-discrimination laws based on the distinct concept of “gender identity.” For instance, versions of the Employment Non-Discrimination Act—which would prohibit employment discrimination on the basis of gender identity—were introduced in Congress in 2007, 2009, 2011, and 2013,<sup>45</sup> but failed to pass the House or Senate or both. Similarly, the Student Non-Discrimination Act—which would condition federal education funding on recipients not discriminating on the basis of gender identity—was introduced in 2010, 2011, 2013, and 2015,<sup>46</sup> but passed neither chamber. And, most prominently, the Equality Act<sup>47</sup>—which would amend the Civil Rights Act of 1964 to include gender identity discrimination in employment,

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<sup>44</sup> In a footnote, the United States argues that Congress’ “inaction” in failing to include the term “gender identity” in Title VII and Title IX “does not support an inference regarding [Congress’] intent with regard to the scope of those statutes.” Mem. at 36 n.18. That is wrong. As discussed in this section and elsewhere, bills have repeatedly attempted, but failed, to enact the distinct concept of “gender identity” into various federal laws. *See also infra* IV.B.1 & Ex. U (discussing failed legislative attempts and distinct uses of term in federal laws). Consequently, Congress’ “inaction” in *not* incorporating gender identity into Title VII or Title VII does not support the “inference that existing legislation already incorporated the offered change.” *Pension Benefit Guar. Corp. v. LTV Corp.*, 496 U.S. 633, 650 (1990). Instead, it supports exactly the *opposite* inference—namely, that the concept is absent from those statutes.

<sup>45</sup> *See H.R. 3685 (110th Cong. 2007); H.R. 3017 (111th Cong. 2009); S. 1584 (111th Cong. 2009); H.R. 1397 (112th Cong. 2011); S. 811 (112th Cong. 2011); H.R. 1755 (113th Cong. 2013); S. 815 (113th Cong. 2013).*

<sup>46</sup> *See H.R. 4530 (111th Cong. 2010); S. 3390 (111th Cong. 2010); H.R. 998 (112th Cong. 2011); S. 555 (112th Cong. 2011); H.R. 846 (114th Cong. 2015); H.R. 1652 (113th Cong. 2013); S. 1089 (113th Cong. 2013); S. 439 (114th Cong. 2015).*

<sup>47</sup> S. 1858 (114th Cong. 2015); H.R. 3185 (114th Cong. 2015). Additionally, since 2007 narrower bills have also been introduced to ban discrimination with respect to gender identity in jury selection (in 2012, 2013 and 2015), housing (in 2010, 2011, and 2013), and health care (in 2009 and 2012). *See generally* H.R. 5849 (112th Cong. 2012); H.R. 312 (113th Cong. 2013); S. 38 (113th Cong. 2013); H.R. 864 (114th Cong. 2015); S. 447 (114th Cong. 2015) (jury selection); H.R. 4820 (111th Cong. 2010); H.R. 3030 (112th Cong. 2011); S. 1605 (112th Cong. 1605); H.R. 2479 (113th Cong. 2013); S. 1242 (113th Cong. 2013) (housing); H.R. 2744 (111th Cong. 2009); S. 2474 (112th Cong. 2002) (health care).

housing, jury selection, education, and other fields—has never been passed by the House or the Senate, or even by any committee, despite being endorsed by the President.<sup>48</sup>

If the United States argument in this case were accepted, it would give any plaintiff the means of revising each of those significant legislative defeats into victories, merely by deploying the argument that the term “sex” always included “gender identity” to begin with. That is not how statutory construction works, however. *See, e.g., Hively v. Ivy Tech Cnty. College*, 2016 U.S. App. LEXIS 13746 (7th Cir. July 28, 2016) (noting that “[o]ur holdings and those of other courts reflect the fact that despite multiple efforts, Congress has repeatedly rejected legislation that would have extended Title VII to cover sexual orientation”). The absence of any reference to the distinct concept of “gender identity” in Title IX’s text, legislative history, or implementing regulations is fatal to the United States’ Title IX claim.

**3. *The Supreme Court’s August 3 order recalling and staying the G.G. mandate strongly counsels denying the injunction.***

Lacking any support from the text or history of Title IX and its implementing regulations, the United States places overwhelming weight on the Fourth Circuit’s decision in *G.G.* and the preliminary injunction subsequently issued in that case—decisions which, at least in the United States’ view, “dictate[ ]” success on its Title IX claim. Mem. at 15. Whatever validity that argument may have had previously, however, it has been decisively overtaken by recent events.

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<sup>48</sup> See Juliet Eilperin, *Obama supports altering Civil Rights Act to ban LGBT discrimination*, Washington Post (Nov. 10, 2015), available at: [https://www.washingtonpost.com/politics/obama-supports-altering-civil-rights-act-to-include-gender-discrimination/2015/11/10/3a05107e-87c8-11e5-9a07-453018f9a0ec\\_story.html](https://www.washingtonpost.com/politics/obama-supports-altering-civil-rights-act-to-include-gender-discrimination/2015/11/10/3a05107e-87c8-11e5-9a07-453018f9a0ec_story.html).

On August 3, the Supreme Court recalled and stayed the Fourth Circuit’s *G.G.* mandate and also stayed the subsequently issued preliminary injunction. *Gloucester Cnty. Sch. Bd. v. G.G.*, 2016 U.S. LEXIS 4631 (U.S. Aug. 3, 2016). As explained in Defendants’ supplemental brief to this Court on August 12, 2016, the Supreme Court’s extraordinary *G.G.* order means the Fourth Circuit’s decision cannot support the Title IX injunction sought by the United States. Doc. 129, at 2-10. Indeed, the order indicates the Court should *deny* the United States’ motion outright.

Regardless of whether the Fourth Circuit’s opinion technically remains circuit “precedent”—which is far from clear, *see* Doc. 129, at 2 n.1—the Supreme Court’s action in *G.G.* plainly reflects the intention of a majority of the Justices to preserve government authority to enforce policies exactly like the North Carolina law at issue in this case, at least until the Court has decided whether to review *G.G.* *See* Doc. 129, at 3 (noting the *G.G.* stay application “urged preservation of the ‘status quo,’ which … meant the continuance of [the Board’s] policy designating school restrooms and locker rooms according to students’ biological sex”). A preliminary injunction against the Act would be identical to the one stayed on August 3 in *G.G.*: it would override North Carolina’s law—which designates certain public facilities based on biological sex—in favor of a policy that allowing access to those facilities based on a person’s gender identity. *See* Doc. 129, at 4 (observing that “[h]ere, the status quo is identical to the one preserved by the *G.G.* order,” and that the stay application specifically referenced the North Carolina litigation). Moreover, as explained in parts I, II, and III, *supra*, the harm caused by an

injunction to North Carolina’s sovereignty and its citizens’ privacy and safety would be far broader than the harm threatened to the School Board in *G.G.*

**4. *The agency documents relied on by the United States cannot control the meaning of Title IX and do not merit deference.***

The United States refers to various agency documents concerning interpretation of Title IX and its regulations with respect to transgender persons, and urges that those documents are “entitled to controlling weight under *Auer v. Robbins*, 519 U.S. 452 (1997).” Mem. at 13 & n.12. The United States is mistaken: those documents do not merit *Auer* deference and cannot control the plain meaning of Title IX and its implementing regulation.<sup>49</sup>

First, the fundamental premise for applying *Auer* is lacking because the agency materials at issue—while purporting to interpret a Title IX *regulation*—are in reality an interpretation of Title IX’s *statutory* prohibition on “sex” discrimination. For example, the May 13, 2016 “Dear Colleague Letter” tells a school that to comply with Title IX it “must not treat a transgender student differently from the way it treats other students of the same gender identity,” but this guidance is premised on the letter’s view that Title IX’s proscription of “sex” discrimination “encompasses discrimination based on a student’s gender identity.” Mem. at 13, Ex. 14 at 1. Plainly that is not an interpretation of a Title IX regulation but of Title IX itself. *See Gonzales v. Oregon*, 546 U.S. 243, 257 (2006) (declining *Auer* deference where agency interpretation “cannot be considered an interpretation of the regulation”). *Auer* does not apply to an agency’s interpretation of a

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<sup>49</sup> These arguments concerning *Auer* deference assume that the *G.G.* decision no longer binds this Court. If, however, the Court concludes that *G.G.* is still binding, Defendants raise these arguments in order to preserve them.

statute, which is addressed by *Chevron* and not *Auer*. See *id.*, at 255 (*Auer* involves deference to interpretation of “the issuing agency’s own ambiguous regulation,” whereas *Chevron* involves deference to an agency’s “interpretation of an ambiguous statute”).

Second, even assuming the referenced agency materials interpret a Title IX regulation and not Title IX itself, another basic premise for applying *Auer* is lacking because the regulation at issue is not ambiguous. See, e.g., *Christensen v. Harris Cnty.*, 529 U.S. 576, 588 (2000) (explaining “*Auer* deference is warranted only when the language of the regulation is ambiguous”). The plain text of 34 C.F.R. § 106.33 allows public restrooms to be separated by “sex,” which unambiguously refers to “nothing more than male and female, under the traditional binary conception of sex consistent with one’s birth or biological sex.” *Johnston*, 97 F.Supp.3d at 676 (citing *Etsitty*, 502 F.3d at 1222).

Third, *Auer* deference should not apply to what even the *G.G.* panel conceded was a “novel” agency interpretation unsupported by the plain language or the original understanding of the regulation. See *G.G.*, 822 F.3d at 722 (stating “the Department’s interpretation is novel because there was no interpretation as to how § 106.33 applied to transgender individuals before January 2015”). To accord controlling deference to that novel interpretation would be to allow the agency to “create *de facto* a new regulation” through a mere letter and guidance document. *Christensen*, 529 U.S. at 588. Moreover, it “would seriously undermine the principle that agencies should provide regulated parties ‘fair warning of the conduct [a regulation] prohibits or prescribes.’” *Christopher v. Smithkline Beecham Corp.*, 132 S. Ct. 2156, 2167 (2012) (quoting *Gates & Fox Co. v.*

*Occupational Safety and Health Review Comm'n*, 790 F.2d 154, 156 (D.C. Cir. 1986) (Scalia, J.)).

Finally, the interpretation reflected in the agency documents relied on by the United States is both plainly erroneous and inconsistent with the regulation itself, and does not merit *Auer* deference for that reason alone. *See Christopher*, 132 S. Ct. at 2166 (*Auer* deference is “undoubtedly inappropriate” when agency’s interpretation is ““plainly erroneous or inconsistent with the regulation””) (quoting *Auer*, 519 U.S. at 461). For example, by conflating the term “sex” with the concept of “gender identity” (which appears nowhere in Title IX or its regulations) the agency’s new interpretation ignores the reality that Title IX, by regulation and by statute, expressly authorizes the provision of facilities and programs separated by “sex”—including, of course, restrooms, locker rooms, and shower facilities. 34 C.F.R. § 106.33.<sup>50</sup> Furthermore, numerous instances in the U.S. Code and other federal provisions show that the concept of “gender identity” is distinct from the concept of “sex” or “gender.”<sup>51</sup> Consequently, it is clear Title IX’s prohibition on “sex” discrimination does not cover “gender identity” discrimination, and that the agency materials relied on by the United States to interpret the Title IX regulation at issue are flatly wrong and do not merit any deference whatsoever.

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<sup>50</sup> See also, e.g., 20 U.S.C. § 1686 (allowing educational institutions to “maintain[ ] separate living facilities for the different sexes”); 34 C.F.R. § 106.32 (allowing funding recipients to “provide separate housing on the basis of sex,” provide those facilities are “[p]roportionate in quantity” and “comparable in quality and cost”); 34 C.F.R. § 106.34 (allowing “separation of students by sex” within physical education classes and certain sports “the purpose or major activity of which involves bodily contact”).

<sup>51</sup> See, e.g., 42 U.S.C. § 13925(b)(13)(A) (prohibiting discrimination in programs funded through Violence Against Women Act “on the basis of actual or perceived race, color, religion, national origin, sex, gender identity ..., sexual orientation, or disability”; 18 U.S.C. § 249(a)(2) (providing criminal penalties for “[o]ffenses involving actual or perceived religion, national origin, gender, sexual orientation, gender identity, or disability”).

**5. If Title IX means what the United States says it does, then Title IX is unconstitutional.**

Aside from agency deference principles, another compelling reason to reject the United States' interpretation of Title IX is that it would render Title IX unconstitutional. *Cf., e.g., Rust v. Sullivan*, 500 U.S. 173, 190 (1991) (noting that “as between two possible interpretations of a statute, by one of which it would be unconstitutional and by the other valid, [a court’s] plain duty is to adopt that which will save the Act””) (quoting *Blodgett v. Holden*, 275 U.S. 142 (1927) (opinion of Holmes, J.)). It would do so in the following ways.

First, it would put parents’ constitutional rights in jeopardy. Depriving parents of any say over whether their children should be exposed to members of the opposite biological sex, possibly in a state of full or complete undress, deprives parents of their right to direct the education and upbringing of their children.<sup>52</sup>

Second, it would unconstitutionally commandeer the authority of governmental agencies like school districts in violation of the Tenth Amendment, stripping them of their basic authority to enact policies to accommodate student privacy and safety.<sup>53</sup>

Third, it would cause Title IX to violate the Spending Clause. U.S. Const. art. I, § 8, cl. 1. When federal funds are granted under spending clause measures like Title IX,

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<sup>52</sup> See generally *Troxel v. Granville*, 530 U.S. 57, 66 (2000) (observing that, “[i]n light of ... extensive precedent, it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children”) (and collecting cases); see also, e.g., *Meyer v. Nebraska*, 262 U.S. 390, 401 (1923) (recognizing that the liberty interest protected by due process includes the right of parents “to control the education of their own”).

<sup>53</sup> See, e.g., *Bd. of Educ. v. Earls*, 536 U.S. 822, 829 (2002) (noting public schools’ “custodial and tutelary responsibility for children”) (quoting *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 655 (1995)); *Bethel Sch. Dist. v. Fraser*, 478 U.S. 675, 684 (1986) (recognizing “the obvious concern on the part of parents, and school authorities acting *in loco parentis*, to protect children”).

officials must be given “clear notice,” via the law’s text, of the conditions attached to the funding.<sup>54</sup> But no funding recipient could have had “clear notice” of the United States’ novel interpretation of Title IX in this case. Indeed, the *G.G.* majority confirmed as much by finding the Title IX regulation was “ambiguous as applied to transgender individuals.” *G.G.*, 822 F.3d at 721; *cf. Bennett v. Ky. Dep’t of Educ.*, 470 U.S. 656, 666 (1985) (finding no “clear notice” violation where there was “no ambiguity with respect to” the funding condition). Consequently, in order to save Title IX from unconstitutionality under the “clear notice” principle, the Court must interpret Title IX *not* to embody the United States’ novel reading of “sex” to include “gender identity.”<sup>55</sup>

## B. The United States’ Title VII claim lacks merit.

The United States claims that the Act constitutes an “unlawful employment practice” under Title VII by discriminating in employment conditions “because of [an] individual’s ... sex,” and by adversely classifying employees “because of [an] individual’s... sex.” Mem. at 16-17 (quoting 42 U.S.C. § 2000e-2(a)(1), (2)). The apparent legal basis for these claims is two-fold: (1) the Act constitutes “gender identity” or “transgender” discrimination, which Title VII’s prohibition on “sex” discrimination allegedly encompasses; and (2) the Act constitutes sex stereotyping under Title VII, as

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<sup>54</sup> *Arlington Cent. Sch. Bd. of Educ. v. Murphy*, 548 U.S. 291, 296 (2006) (clear notice not provided when the text “does not even hint” fees must be paid to prevailing party, even though the legislative history indicated otherwise); *NFIB v. Sebelius*, 132 S. Ct. 2566, 2606 (2012) (Congress’s power to legislate under the Spending Clause “does not include surprising participating States with post-acceptance or retroactive conditions” (quoting *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 25 (1981))).

<sup>55</sup> *Cf. Davis v. Monroe Cnty.*, 526 U.S. 629, 647 (1999) (finding no “clear notice” violation for Title IX sexual harassment liability, but only in narrow circumstance “where the recipient is deliberately indifferent to known acts of student-on-student sexual harassment and the harasser is under the school’s disciplinary authority”). For similar reasons, making federal education funding turn on the State’s acceptance of this novel funding condition would constitute “economic dragooning” in violation of the Tenth Amendment. *NFIB*, 132 S. Ct. at 2605; *see also South Dakota v. Dole*, 483 U.S. 203, 2011 (1987).

recognized by *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989). Mem. at 18-26. The United States bolsters these legal claims with the claim that Title VII silently incorporates a particular view of “gender identity” which, the United States insists, is grounded in “science” and necessary to “an informed understanding of the real-life meaning of the term ‘sex.’” Mem. at 24. The United States is gravely mistaken on all of these points.

Apart from those errors, however, the United States’ Title VII claim faces an insurmountable threshold obstacle. On its face, the Act classifies based not on “gender identity” or “transgender status” but on “biological sex.” Thus, as with its Title IX claim, *supra*, the United States’ Title VII claim lacks any intelligible grounding in the Act’s text. In any event, as explained below, the United States is wrong about what Title VII means and wrong about what Title VII case law holds.

**1. *Neither the text nor legislative history of Title VII remotely suggests that its prohibition on “sex” discrimination encompasses “gender identity” or “transgender” discrimination.***

As with Title IX, neither the text nor legislative history of Title VII even hint that “sex” discrimination encompasses discrimination on the basis of gender identity or transgender status.<sup>56</sup> As for the text, “[m]any courts have defined the term ‘sex’ in the context of the Equal Protection Clause, as well as anti-discrimination statutes such as

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<sup>56</sup> The United States suggests that Title VII must be interpreted “consistent[ly]” with Title IX, but it is unclear how that helps its argument since Title IX’s text and legislative history are equally devoid of any mention of gender identity or transgender status. In any event, Title VII was passed in 1964 while Title IX was passed eight years later in 1972. Thus, even indulging the assumption that Title IX includes gender identity discrimination, “later-enacted laws … do not declare the meaning of earlier law,” *Almendarez-Torres v. United States*, 523 U.S. 224, 237 (1998), and “the view of a later Congress cannot control the interpretation of an earlier enacted statute.” *O’Givie v. United States*, 519 U.S. 79, 90 (1996). Furthermore, if the United States means that the Fourth Circuit’s *G.G.* decision compels interpreting Title VII to include gender identity discrimination, the United States is simply mistaken. Even assuming the decision is still relevant following the Supreme Court’s August 3 stay, *G.G.* addressed only a Title IX regulation, expressly declined to reach the plaintiff’s equal protection claim, and did not even involve a Title VII claim.

Title VII, as the biological sex assigned to a person at birth.” *Johnston*, 97 F.Supp.3d at 670-71 (discussing *Michael M. v. Superior Ct. of Sonoma Cnty*, 450 U.S. 464, 469 (1981); *Frontiero v. Richardson*, 411 U.S. 677, 686 (1973); *Ulane*, 742 F.2d at 1085); *see also*, e.g., *Etsitty v. Utah Transit Auth.*, 502 F.3d 1215, 1222 (10th Cir. 2007)(agreeing that “sex” in Title VII means “the traditional binary conception of sex” as “male and female”). As the Seventh Circuit correctly held in *Ulane*, the “plain meaning” of Title VII “implies that it is unlawful to discriminate against women because they are women and against men because they are men,” and, consequently, “[t]he words of Title VII do not outlaw discrimination against … a person born with a male body who believes himself to be a female, or a person born with a female body who believes herself to be a male.” 742 F.2d at 1085; *accord Johnston*, 97 F.Supp.3d at 671 (concluding that, “while Plaintiff might identify his *gender* as male, his *birth sex* is female,” and [i]t is this fact … that is fatal to Plaintiffs’ sex discrimination claim”) (emphases in original).

As for Title VII’s legislative history, there is “not the slightest suggestion in the legislative record” to support interpreting “sex” to include gender identity or transgender status. *Ulane*, 742 F.2d at 1085. As is widely known, the term “sex” was added by a foe of the 1964 legislation “at the last minute in an apparent attempt to defeat the bill.” *Quick v. Donaldson Co., Inc.*, 90 F.3d 1372, 1381 (8th Cir. 1996), n. 3.<sup>57</sup> Consequently, “[s]ex as a basis for discrimination was added as a floor amendment one day before the

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<sup>57</sup> See also, e.g., *Price Waterhouse*, 490 U.S. at 243 n.9 (noting “[t]he somewhat bizarre path by which ‘sex’ came to be included as a forbidden criterion for employment—it was included in an attempt to defeat the bill”) (citing C.B. Whalen, *The Longest Debate: A Legislative History of the 1964 Civil Rights Act* 115-117 (1985)); *Ulane*, 742 F.3d at 1085 (noting that the “sex amendment” to Title VII was “the gambit of a congressman seeking to scuttle adoption of the Civil Rights Act”).

House approved Title VII, without prior hearing or debate.” *Holloway v. Arthur Anderson & Co.*, 566 F.2d 659, 662 (9th Cir. 1977). Given this “total lack of legislative history supporting the sex amendment,” together with “the circumstances of the amendment’s adoption,” there is no basis for ascribing to the 1964 Congress an intent to “apply anything other than the traditional concept of sex.” *Ulane*, 742 F.2d at 1085.

Relying on *Oncale v. Sundowner Offshore Services*, 523 U.S. 75 (1998), the United States asserts that, despite the “likelihood” that Congress never contemplated transgender discrimination in Title VII, that should not control the meaning of the statute today. Mem. at 23. The United States misreads *Oncale*, however, which reasoned that “it is ultimately *the provisions of our laws* rather than the principal concerns of our legislators by which we are governed.” 523 U.S. at 79 (emphasis added). As already explained, Title VII’s plain text—apart from the expectations of the legislators who voted for it—does not remotely suggest it prohibits transgender discrimination. Moreover, *Oncale* merely held that the Title VII’s textual prohibition of “sex” discrimination extends to sexual harassment “of any kind,” whether done by males against males or by males against females. *Id.* at 79-80 (holding statutory language “must extend to sexual harassment of any kind that meets the statutory requirements”). By sharpest contrast, here the United States seeks—not merely to apply the term “sex” discrimination to a likely unforeseen set of circumstances—but instead to alter the meaning of the statutory term “sex” altogether. *Cf. Etsitty*, 502 F.3d at 1222 n.2 (observing “[i]f transsexuals are to receive legal protection apart from their status as male or female … such protection must come from Congress and not the courts”).

Furthermore, just as with Title IX, *supra*, the United States fails to grasp that Congress *could* have included “gender identity” discrimination in Title VII, but *chose not to do so*. When Congress wants to incorporate distinct categories like “sexual orientation” or “gender identity” into anti-discrimination laws, it knows how. As shown in the chart attached as Exhibit U, of the approximately *seventy-five* statutes containing the term “gender,” *seventy-one* use “gender” as a synonym for biological sex. The remaining four specifically employ the phrase “gender identity.” In other words, Congress is fully aware of the distinction between “sex” or “gender” on the one hand, and “gender identity” on the other, and it has never legislated the latter concept into Title VII or Title IX despite ample opportunities to do so.<sup>58</sup> This Court should therefore “decline in behalf of the Congress to judicially expand the definition of sex … in Title VII beyond its common and traditional interpretation.” *Ulano*, 742 F.2d at 1086.

In a recent opinion, the Seventh Circuit underscored the point that courts lack the authority to add protected categories to Title VII when Congress has failed to do so. In *Hively v. Ivy Tech Community College*, the court reaffirmed the correctness of its decision in *Ulano* that the ““plain meaning”” of the term “sex” in Title VII means only discrimination ““against men because they are men and women because they are women.”” *Hively v. Ivy Tech Community College*, \_\_ F.3d \_\_, 2016 U.S. App. LEXIS 13746, at \*4 (7th Cir. July 28, 2016) (quoting *Ulano*, 742 F.2d at 1085); *see also id.* at \*9

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<sup>58</sup> Ironically, the federal statute that best shows distinguishes “sex” from “gender identity”—VAWA—is relied on by the United States *in this very case*. As explained *infra*, there are numerous reasons why the Act does not run afoul of VAWA’s prohibition on “gender identity” discrimination. The salient point here, however, is that at least Congress *legislated* the concept of “gender identity” discrimination into VAWA, while doing nothing of the sort in Title VII and Title IX.

(observing that “our understanding in *Ulane* that Congress intended a very narrow reading of the term ‘sex’ when it passed Title VII of the Civil Rights Act … appears to be correct”). In so doing, the Seventh Circuit confirmed that Title VII does not encompass a claim of sexual orientation discrimination, emphasizing that, “despite multiple efforts, Congress has repeatedly rejected legislation that would have extended Title VII to cover sexual orientation.” *Id.* at \*7 n.2.<sup>59</sup> *Hively* squarely forecloses the United States’ attempt to extend Title VII to cover gender identity or transgender discrimination—particularly since *Hively* explicitly reaffirmed the correctness of *Ulane*, the leading circuit precedent

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<sup>59</sup> The court compiled the following list of failed congressional attempts. Notably, the bills after 2007 included gender identity discrimination in addition to sexual orientation discrimination (*see also supra* (discussing this issue in terms of Title IX)):

- Employment Non-Discrimination Act of 1994, H.R. 4636, 103rd Cong. (1994)
- Employment Non-Discrimination Act of 1994, S. 2238, 103rd Cong. (1994)
- Employment Non-Discrimination Act of 1995, H.R. 1863, 104th Cong. (1995)
- Employment Non-Discrimination Act of 1995, S. 932, 104th Cong. (1995)
- Employment Non-Discrimination Act of 1996, S. 2056, 104th Cong. (1995)
- Employment Non-Discrimination Act of 1997, H.R. 1858, 105th Cong. (1997)
- Employment Non-Discrimination Act of 1997, S. 869, 105th Cong. (1997)
- Employment Non-Discrimination Act of 1999, H.R. 2355, 106th Cong. (1999)
- Employment Non-Discrimination Act of 1999, S. 1276, 106th Cong. (1999)
- Employment Non-Discrimination Act of 2001, H.R. 2692, 107th Cong. (2001)
- Protecting Civil Rights for all Americans Act of 2001, S. 19, 107th Cong. (2001)
- Employment Non-Discrimination Act of 2002, S. 1284, 107th Cong. (2002)
- Equal Rights and Equal Dignity for Americans Act of 2003, S. 16, 108th Cong. (2003)
- Employment Non-Discrimination Act of 2003, H.R. 3285, 108th Cong. (2003)
- Employment Non-Discrimination Act of 2003, S. 1705, 108th Cong. (2003)
- Employment Non-Discrimination Act of 2007, H.R. 2015, 110th Cong. (2007)
- Employment Non-Discrimination Act of 2007, H.R. 3685, 110th Cong. (2007)
- Employment Non-Discrimination Act of 2009, H.R. 3017, 111th Cong. (2009)
- Employment Non-Discrimination Act of 2009, H.R. 2981, 111th Cong. (2009)
- Employment Non-Discrimination Act of 2009, S. 1584, 111th Cong. (2009)
- Employment Non-Discrimination Act of 2011, H.R. 1397, 112th Cong. (2011)
- Employment Non-Discrimination Act of 2011, S. 811, 112th Cong. (2011)
- Employment Non-Discrimination Act of 2013, H.R. 1755, 113th Cong. (2013)
- Employment Non-Discrimination Act of 2013, S. 815, 113th Cong. (2013)

*Hively*, 2016 U.S. App. LEXIS 13746, at \*7 n.2; *see also Ulane*, 742 F.2d at 1085–86 (listing numerous failed attempts to amend Title VII to add “sexual orientation” between 1975 and 1982).

showing that Title VII's prohibition on "sex" discrimination means only "that it is unlawful to discriminate against women because they are women and against men because they are men," and "is not synonymous with a prohibition on discrimination based on an individual's sexual identity disorder or discontent with the sex into which they were born." *Ulane*, 742 F.2d at 1085.

**2. *Nearly every federal court to consider the question holds that Title VII does not encompass gender identity or transgender discrimination.***

The United States asserts that "[t]he weight of legal authority holds that discriminating against transgender employees is discrimination 'because of ... sex' under Title VII." Mem. at 17. Exactly the reverse is true. "[N]early every federal court that has considered the question in the Title VII context has found that transgendered individuals are not a protected class under Title VII." *Johnston*, 97 F.Supp.3d at 675 (citing *Etsitty*, 502 F.3d at 1221-22; *Ulane*, 742 F.2d at 1084; *Sommers*, 667 F.2d at 750; *Lopez*, 542 F.Supp.2d at 658; *Sweet*, 2003 U.S. Dist. LEXIS 11373, at \*2). Indeed, the United States fails to acknowledge that four federal circuits have squarely held that a person's transsexual or transgender status is not encompassed within the meaning of "sex" in Title VII: the Tenth (*Etsitty, supra*), Eighth (*Sommers, supra*), Ninth (*Holloway*, 566 F.2d at 662-63),<sup>60</sup> and Seventh (*Ulane, supra*). Recent decisions from federal district

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<sup>60</sup> A subsequent panel disapproved of *Holloway* in *Schwenk v. Hartford*, 204 F.3d 1187 (9th Cir. 2000), a case that did not involve Title VII but rather the Gender Motivated Violence Act. *Holloway* is therefore still good law in the Ninth Circuit with respect to Title VII.

courts have accordingly concluded that the weight of federal authority does not recognize gender identity or transgender status as a protected category under Title VII.<sup>61</sup>

Unsurprisingly, then, the cases the United States relies on, *see Mem.* at 19-21, do not support the proposition that “transgender” discrimination is “sex” discrimination under Title VII. Indeed, some of those cases confirm that “nearly all federal courts” have *rejected* that very proposition. *See, e.g., Schroer*, 577 F.Supp.2d at 305; *Finkle*, 12 F.Supp.3d at 788. Even the few cases possibly supporting the United States’ Title VII theory—the Sixth Circuit’s decisions in *Barnes*, *supra*, and *Smith v. City of Salem*, 378 F.3d 566 (6th Cir. 2004)—are ambiguous as to whether transgender status is recognized under Title VII. As the Tenth Circuit has correctly explained, “[e]ven the Sixth Circuit, which extended protection to transsexuals under the *Price Waterhouse* theory ..., explained that an individual’s status as a transsexual should be irrelevant to the availability of Title VII protection.” *Etsitty*, 502 F.3d at 1222 (citing *Smith*, 378 F.3d at 574); *see also Johnston*, 97 F.Supp.3d at 675 n.17 (explaining that in *Smith*, the Sixth Circuit “did not conclude that ‘transgender’ is a protected class under Title VII” but only that a “male or female who is also transgender” can assert a sex stereotyping claim). As explained by *Etsitty* and *Johnston*, the United States’ authorities are largely Title VII *sex stereotyping* cases, where plaintiffs suffer adverse employment actions because their appearance or actions are insufficiently “masculine” or “feminine” or otherwise fail to

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<sup>61</sup> *See, e.g., Johnston*, 97 F.Supp.3d at 1221-21 (“nearly every federal court” to have considered it has found transgender status not protected under Title VII); *Schroer v. Billington*, 577 F.Supp.2d 293, 305 (D.D.C. 2008) (“discrimination based on transsexuality itself” is “a characteristic that, in and of itself, nearly all federal courts have said is unprotected by Title VII”);<sup>61</sup> *Finkle v. Howard Cnty.*, 12 F.Supp.3d 780, 788 (D. Md. 2014) (agreeing with *Schroer* that “nearly all federal courts” have held that transgender status “is unprotected” under Title VII).

meet an employer's stereotypical expectations about men or women.<sup>62</sup> As explained below, however, sex stereotyping cases have no application whatsoever to the Act.

In sum, the United States is badly mistaken that the "weight" of federal authority recognizes transgender status as protected by Title VII. The reverse is true.<sup>63</sup>

### **3. *Sex stereotyping under Price Waterhouse has no application to the Act.***

The United States relies on *Price Waterhouse v. Hopkins*, 490 U.S. 228, to argue that the Act discriminates on the basis of sex stereotypes. *See, e.g.*, Mem. at 26 (asserting *Price Waterhouse* is "controlling authority" showing the Act violates Title VII). The United States is wrong: the Act is precisely the *opposite* of sex stereotyping discrimination prohibited by *Price Waterhouse*.

*Price Waterhouse* found sex stereotyping discrimination where evidence showed a woman was not promoted because, in her employer's view, she was too "macho," "overly aggressive [and] unduly harsh" for a woman, and should have walked, talked, dressed,

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<sup>62</sup> *See, e.g., Barnes v. City of Cincinnati*, 401 F.3d 729, 735, 737 (6th Cir. 2005) (recognizing Title VII sex stereotyping claim against police department for demoting transsexual officer because "he did not appear to be 'masculine'"); *Schroer*, 577 F.Supp.2d at 303-07 (recognizing sex stereotyping and sex discrimination claim under Title VII by person not hired specifically because he revealed to potential employer he was undergoing sex change); *Finkle*, 12 F.Supp.3d at 787-88 (recognizing sex stereotyping claim based on allegation that plaintiff was not hired specifically because she was transgender).

<sup>63</sup> The United States also attempts to rely on actions by the Equal Opportunity Employment Commission ("EEOC"). Mem. at 21-22 (citing, *e.g.*, *Macy v. Holder*, No. 0120120821, 2012 EEOPUB LEXIS 1181, 2012 WL 1435995 (E.E.O.C. Apr. 20, 2012)). These EEOC materials take a view of Title VII that, like the United States', is incorrect for the reasons explained in this section. Unsurprisingly, the United States does not claim these EEOC interpretations merit any deference. It is settled that "'Congress, in enacting Title VII, did not confer upon the EEOC authority to promulgate rules and regulations,'" and that EEOC interpretations of Title VII are not entitled to *Chevron* deference. *EEOC v. Arabian Am. Oil Co.*, 499 U.S. 244, 257 (1991) ("Aramco") (quoting *Gen. Elec. Co. v. Gilbert*, 429 U.S. 125, 141 (1976)); *see also, e.g., AMTRAK v. Morgan*, 526 U.S. 101, 110 n.6 (2002) (noting "we have held that the EEOC's interpretive guidelines do not receive *Chevron* deference"). Moreover, the EEOC's interpretation of Title VII here is not even entitled to *Skidmore* deference because it "contradicts the position which [EEOC] had enunciated at an earlier date." *Aramco*, 499 U.S. at 257. Before *Macy*, "the EEOC had developed a consistent body of decisions that did not recognize Title VII claims based on the complainant's transgender status." *Fowlkes v. Ironworkers Local 40*, 790 F.3d 378, 386 (2d Cir. 2015).

and styled her hair and make-up “more femininely.” 490 U.S. at 235. *Price Waterhouse* thus teaches that “sex stereotyping claims are based on behaviors, mannerisms, and appearances,” such as when a male employee is fired because he “wear[s] jewelry ... considered too effeminate, carr[ies] a serving tray too gracefully, or tak[es] too active a role in child rearing.”” *Johnston*, 97 F.Supp.3d at 680 (quoting *Glenn v. Brumby*, 663 F.3d 1312, 1318-19 (11th Cir. 2011)); *see also*, e.g., *Smith*, 378 F.3d at 572 (recognizing a sex stereotyping claim where plaintiff alleges his “conduct and mannerisms ... did not conform with his employers’ and co-workers’ sex stereotypes of how a man should look and behave”).

The United States’ claim that the Act engages in sex stereotyping fundamentally misconceives the nature of sex stereotyping under *Price Waterhouse*. The Act does not distinguish men or women based on how “masculine” or “feminine” they look, act, talk, dress, or style their hair. It does not allow only “masculine” men in the men’s bathroom, but require more “effeminate” men to use the women’s bathroom. It does not allow only “feminine” women in the women’s locker room, but require more “macho” women to use the men’s locker room. *Those* access policies—as admittedly absurd as such policies would be—would indeed qualify as sex stereotypes under *Price Waterhouse*. The Act, of course, does nothing of the sort. Instead, the Act designates public restrooms and other facilities for men or women based on *biology*, period—regardless of how a man or a woman looks, acts, talks, dresses, or does their hair—in other words, regardless of whether a man or a woman satisfies some stereotypical notion of masculinity or

femininity. Far from violating *Price Waterhouse*, the Act is the exact *opposite* of the kind of sex stereotyping prohibiting by that decision.

Thus, the United States' theory fails even to state an intelligible claim for sex stereotyping discrimination under *Price Waterhouse*. As the *Johnston* court reasoned in rejecting precisely the same theory, the United States "has not alleged that Defendants discriminated against [employees] because of the way [they] looked, acted, or spoke. Instead, [the United States] alleges only that [Defendants] refused to permit [employees] to use the bathrooms and locker rooms consistent with [their] gender identity rather than [their] birth sex. Such an allegation is insufficient to state a claim for discrimination under a sex stereotyping theory." *Johnston*, 97 F.Supp.3d at 680-81 (citing *Eure v. Sage Corp.*, 61 F.Supp.3d 651, 2014 U.S. Dist. LEXIS 163151 (W.D. Tex. Nov. 19, 2014); *Etsitty*, 502 F.3d at 1224; *Johnson v. Fresh Mark, Inc.*, 337 F.Supp.2d 996, 1000 (N.D. Ohio 2003), *aff'd*, 98 F. App'x 461 (6th Cir. 2004)). As the Tenth Circuit has explained, *Price Waterhouse* does not require "employers to allow biological males to use women's restrooms," because "[u]se of a restroom designated for the opposite sex does not constitute a mere failure to conform to sex stereotypes." *Etsitty*, 502 F.3d at 1224.

The United States' attempt to avoid this obvious conclusion would render the concept of sex stereotyping incoherent. The United States argues that, "[j]ust as the plaintiff in *Price Waterhouse* was not promoted because she confounded her employer's stereotypical notion of womanhood, so, too, are transgender people adversely treated by H.B. 2 because they do not conform to the statute's stereotypical notion of what makes someone a 'real' man or 'real' woman." Mem. at 20. To be clear, the United States is

asserting that *biology* is a “stereotypical notion” of what makes someone a man or a woman. Merely stating the argument refutes it. And a passing glance at the *Price Waterhouse* opinion refutes it as well. Unsurprisingly, nothing in *Price Waterhouse* supports the United States’ revolutionary argument that *biology* is a form of sex stereotyping. The United States’ only attempt to ground that novel theory in the actual language of the decision is to quote the statement that Title VII requires a plaintiff to prove her employer relied on “sex-based considerations” for its adverse decision. Mem. at 18 (quoting *Price Waterhouse*, 490 U.S. at 242). But it is obvious that, by “sex-based considerations,” the Court was referring to sex-based aspects of behavior or appearance such as an employer’s “belief that a woman cannot be aggressive,” *id.* at 250, or its insistence that a woman’s “flawed ‘interpersonal skills’ can be corrected by a soft-hued suit or a new shade of lipstick,” *id.* at 256. Conflating these sex-based considerations with an employee’s biological status as a woman or a man is to press the Supreme Court’s reasoning beyond the point of coherence.

To put it plainly, distinguishing men from women by whether they have male or female genitals, or by whether they have an XY or an XX chromosome, is not, as the United States staggeringly asserts, “grounded in stereotype rather than reality.” *Id.* at 26.<sup>64</sup> Whatever reality the United States’ arguments inhabit, the reality of Title VII is

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<sup>64</sup> The United States attempts to obscure this point by referencing persons born with “chromosomal abnormalities that make it impossible to classify their sex based on chromosomes.” Mem. at 25. But this case has nothing to do with persons born with those extraordinarily rare conditions. Moreover, it is “medically inaccurate” to suggest, as the United States does, that the existence of such conditions means that persons’ anatomy, chromosomes, and other biological characteristics are not “an objectively valid way to define sex.” See, e.g., Hruz ¶ 18; Van Meter ¶¶ 12-14, 16, 18; Josephson ¶ 11. Nor does the United States limit its arguments to persons with such conditions, but instead asserts that Title IX, Title VII, and VAWA require access based solely on a person’s “internal sense of being male or female.”

that it prohibits “sex” discrimination, which “means nothing more than male and female, under the traditional binary conception of sex consistent with one’s birth or biological sex.” *Johnston*, 97 F.Supp.3d at 676 (citing *Etsitty*, 502 F.3d at 1222). As *Price Waterhouse* itself aptly remarked, “[w]e need not leave our common sense at the doorstep when we interpret a statute.” 490 U.S. at 241.

### C. The United States’ VAWA claim lacks merit.

The United States makes a half-hearted claim that the Act violates VAWA by requiring federally funded state agencies to discriminate “on the basis of actual or perceived … sex, [or] gender identity.” Mem. at 35 (quoting 42 U.S.C. § 13925(b)(13)(A)). The Act does so, argues the United States, because it requires agencies to “treat transgender people differently from non-transgender people.” Mem. at 35. The United States is badly mistaken.

First, the United States fails even to acknowledge an “exception” to VAWA’s non-discrimination provision that immediately follows the subsection cited in the United States’ memorandum:

*Exception. If sex segregation or sex-specific programming is necessary to the essential operation of a program, nothing in this paragraph shall prevent any such program or activity from consideration of an individual’s sex. In such circumstances, grantees may meet the requirements of this paragraph by providing comparable services to individuals who cannot be provided with the sex-segregated or sex-specific programming.*

42 U.S.C. § 13925(b)(13)(B) (emphasis added). Thus, even assuming that the Act discriminates on the basis of “actual or perceived … sex,” such discrimination is

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Mem. at 3. At bottom, however, the entire subject is a red herring. Merely because a tiny number of persons are born with congenital abnormalities does not convert biological characteristics into a “stereotype” of what distinguishes men from women.

authorized by VAWA *itself* where separation of males and females is “necessary to the essential operation of a program.” And the United States makes no attempt to argue that sex-separation is not necessary to the essential operation of multiple-occupancy restrooms, changing rooms, and shower facilities—nor could it, given longstanding DOE and DOJ regulations allowing separation of the sexes in precisely those kinds of facilities. *See* 28 C.F.R. § 54.410 (DOJ); 34 C.F.R. § 106.33 (DOE). That omission is particularly glaring given that the United States has sued the North Carolina Department of Public Safety—the state agency responsible for the *prison* system—which must mean that the United States believes VAWA forbids North Carolina from separating prisoners on the basis of sex in prison restrooms, changing rooms, and showers.

Second, the United States is simply wrong that the Act discriminates “on the basis of … gender identity.” As already explained, the Act designates public multiple-user facilities on the basis of “biological sex,” not “gender identity.” *See supra* I.A. But even if the Act could be construed as implicitly discriminating based on gender identity, VAWA makes an explicit exception for “sex-separated” facilities that squarely encompasses the facilities included under the Act. Again, far from *impugning* the sex-separation required by the Act in certain public facilities, VAWA expressly *authorizes* it.

Finally, the United States makes the puzzling argument that—despite VAWA’s deliberate insertion of the term “gender identity” alongside “sex”—the term “sex” in VAWA nonetheless “includ[es] gender identity,” as well as in Title VII and Title IX. Mem. at 36 & n.18. This argument is difficult to take seriously. The term “gender

identity” appears in VAWA as a stand alone category,<sup>65</sup> as it does throughout federal law, and, moreover, the United States’ own memorandum expressly treats “sex” and “gender identity” as distinct categories. Mem. at 35 (stating VAWA prohibits discrimination on the basis of “sex [or] gender identity”) (brackets in United States memorandum). The United States attempts to obscure this plain textual point by arguing there is “no evidence that Congress intended the inclusion of ‘gender identity’ in VAWA to imply ... a limitation on ‘sex.’” Mem. at 36 n.18. That is flatly wrong. Statements throughout the Congressional Record confirm that, by including “gender identity” in VAWA, Congress meant to *extend* VAWA’s particular anti-discrimination provision to previously uncovered transgender persons.<sup>66</sup> Those statements would make no sense if the term “sex”—whether in VAWA or any other federal statute—already included the distinct concept of “gender identity” or “transgender” status.

At bottom, the United States fails to grapple with the reality that its VAWA claim—in addition to being wrong on its own merits—also starkly reveals why its Title

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<sup>65</sup> See, e.g., 42 U.S.C. § 13925(a)(39) (defining “underserved populations” to include those underserved “because of ... gender identity”); *id.* § 13925(b)(13)(A) (barring discrimination on the basis of, *inter alia*, “sex” or “gender identity”).

<sup>66</sup> See, e.g., 159 Cong. Rec., No. 19, at S482 (Feb. 7, 2013) (Sen. Murray) (stating that “millions” of Americans are excluded from current law, “among whom are LGBT individuals”); 159 Cong. Rec. No. 29, at H743 (Feb. 28, 2013) (Rep. Quigley) (stating that rejected version of VAWA would “strip out essential protections for . . . lesbian, gay, bisexual, and transgender victims,” compared to ultimately passed law); *id.* at H747 (Congressional Report highlighting statements that VAWA would be “extended to all instances of intimate partner violence, including for gay, lesbian, bisexual and transgender people”); *id.* at H749 (report highlighting statements that VAWA would extend to “new purpose areas” in order “to make services available for all victims regardless of sexual orientation or gender identity”); *id.* at H780-81 (report noting that, if VAWA did not mention “gender identity,” it would not “protect LGBT people from discrimination,” would not “ensure that LGBT victims receive the services they need regardless of their gender identity or sexual orientation,” and would “leave[] out updates to VAWA that protect ... LGBT people,” but that with the words “gender identity” VAWA “would address[] gaps in current service programs that left lesbian, gay, and transgender people ... without vital services or protections”).

IX and Title VII claims are baseless. At least Congress *legislated* the term “gender identity” into VAWA’s particular anti-discrimination provisions. Congress, however, did no such thing in Title IX or Title VII and the term “gender identity” also does not appear in any regulation implementing those statutes. Common sense thus compels the conclusion that Title IX and Title VII contain no prohibition on gender identity discrimination and that North Carolina’s Act *could not* violate either of those statutes on that non-existent basis.

The VAWA claim also reveals another profound defect in the United States’ overall theory of this case. When Congress legislated “gender identity” into VAWA, it operated on the commonsense understanding that “sex” is a concept distinct from “gender identity” and that, in certain settings, separation of persons by “sex” is necessary and desirable. That is why Congress included an express exception for “sex segregation or sex-specific programming” in certain programs and activities. 42 U.S.C. § 13925(b)(13)(B). Ironically, DOJ’s own prison regulations take a similar approach. For instance, those regulations tightly restrict “cross-gender” strip searches, pat-down searches, and visual body cavity searches, 28 C.F.R. § 115.15(c), and also require policies that generally “enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia.” *Id.* § 115.15(d). With respect to “transgender and intersex inmates,” the regulations require security staff to be trained “how to conduct cross-gender pat-down searches … in professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.” *Id.* § 115.15(f). Furthermore, the regulations

require that the agency consider on an “individualized” and “case-by-case basis” whether assignment of a transgender or intersex inmate to a “facility for male or female inmates … would ensure the inmate’s health and safety, … [or] present management or safety concerns.” *Id.* § 115.42(c) . Finally, the regulations require that “[t]ransgender and intersex inmates shall be given the opportunity to shower separately from other inmates.” *Id.* at § 115.42(f).

These federal regulations—promulgated by DOJ—are strikingly inconsistent with the position taken by the United States in this case. Instead of allowing *any* commonsense separation of the sexes on the basis of biological reality (which VAWA and the DOJ prison regulations expressly do), the United States’ position in this case is that VAWA, Title VII, and Title IX demand unfettered access to public restrooms, locker rooms, and shower facilities based solely on “gender identity, which is a person’s internal sense of being male or female.” Mem. at 3. Put another way, the approach taken by VAWA and the DOJ’s own prison regulations to the sensitive issue of gender dysphoric persons in intimate public settings has much in common with the approach to restrooms, locker rooms, and shower facilities taken by North Carolina’s Act. One might even say that the DOJ regulations “treat transgender people differently from non-transgender people.” Mem. at 35. Perhaps the most puzzling aspect of these proceedings, then, is why the United States has brought this major civil rights enforcement action against North Carolina to begin with, when VAWA and DOJ’s own prison regulations are inconsistent with its theory of what federal anti-discrimination law requires and *consistent* with the policy approach taken by North Carolina’s Act.

## **CONCLUSION**

For the foregoing reasons, the United States' motion for preliminary injunction should be denied.

*(Counsel signatures on following page)*

Respectfully submitted, this the 17th day of August, 2016.

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**CERTIFICATE OF SERVICE**

I hereby certify that, on this date, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all CM/ECF participating attorneys

This the 17th day of August, 2016.

By: /s/ William W. Stewart, Jr.  
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# EXHIBIT A

## GENERAL ASSEMBLY OF NORTH CAROLINA SECOND EXTRA SESSION 2016

H

1

### HOUSE BILL 2

Short Title: Public Facilities Privacy & Security Act. (Public)

Sponsors: Representatives Bishop, Stam, Howard, and Steinburg (Primary Sponsors).

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to:

March 23, 2016

1 A BILL TO BE ENTITLED

2 AN ACT TO PROVIDE FOR SINGLE-SEX MULTIPLE OCCUPANCY BATHROOM AND  
3 CHANGING FACILITIES IN SCHOOLS AND PUBLIC AGENCIES AND TO CREATE  
4 STATEWIDE CONSISTENCY IN REGULATION OF EMPLOYMENT AND PUBLIC  
5 ACCOMMODATIONS.

6 Whereas, the North Carolina Constitution directs the General Assembly to provide for  
7 the organization and government of all cities and counties and to give cities and counties such  
8 powers and duties as the General Assembly deems advisable in Section 1 of Article VII of the  
9 North Carolina Constitution; and

10 Whereas, the North Carolina Constitution reflects the importance of statewide laws  
11 related to commerce by prohibiting the General Assembly from enacting local acts regulating  
12 labor, trade, mining, or manufacturing in Section 24 of Article II of the North Carolina  
13 Constitution; and

14 Whereas, the General Assembly finds that laws and obligations consistent statewide for  
15 all businesses, organizations, and employers doing business in the State will improve intrastate  
16 commerce; and

17 Whereas, the General Assembly finds that laws and obligations consistent statewide for  
18 all businesses, organizations, and employers doing business in the State benefit the businesses,  
19 organizations, and employers seeking to do business in the State and attracts new businesses,  
20 organizations, and employers to the State; Now, therefore,  
21 The General Assembly of North Carolina enacts:

22

23 **PART I. SINGLE-SEX MULTIPLE OCCUPANCY BATHROOM AND CHANGING  
24 FACILITIES**

25 **SECTION 1.1.** G.S. 115C-47 is amended by adding a new subdivision to read:

26 "27 (63) To Establish Single-Sex Multiple Occupancy Bathroom and Changing  
28 Facilities. – Local boards of education shall establish single-sex multiple  
29 occupancy bathroom and changing facilities as provided in G.S. 115C-521.2.""

30 **SECTION 1.2.** Article 37 of Chapter 115C of the General Statutes is amended by  
adding a new section to read:

31 **§ 115C-521.2. Single-sex multiple occupancy bathroom and changing facilities.**

32 (a) Definitions. – The following definitions apply in this section:

33 (1) Biological sex. – The physical condition of being male or female, which is  
34 stated on a person's birth certificate.



1                   (2) Multiple occupancy bathroom or changing facility. – A facility designed or  
2                   designated to be used by more than one person at a time where students may be  
3                   in various states of undress in the presence of other persons. A multiple  
4                   occupancy bathroom or changing facility may include, but is not limited to, a  
5                   school restroom, locker room, changing room, or shower room.

6                   (3) Single occupancy bathroom or changing facility. – A facility designed or  
7                   designated to be used by only one person at a time where students may be in  
8                   various states of undress. A single occupancy bathroom or changing facility  
9                   may include, but is not limited to, a single stall restroom designated as unisex  
10                  or for use based on biological sex.

11                  (b) Single-Sex Multiple Occupancy Bathroom and Changing Facilities. – Local boards of  
12                  education shall require every multiple occupancy bathroom or changing facility that is designated  
13                  for student use to be designated for and used only by students based on their biological sex.

14                  (c) Accommodations Permitted. – Nothing in this section shall prohibit local boards of  
15                  education from providing accommodations such as single occupancy bathroom or changing  
16                  facilities or controlled use of faculty facilities upon a request due to special circumstances, but in  
17                  no event shall that accommodation result in the local boards of education allowing a student to use  
18                  a multiple occupancy bathroom or changing facility designated under subsection (b) of this section  
19                  for a sex other than the student's biological sex.

20                  (d) Exceptions. – This section does not apply to persons entering a multiple occupancy  
21                  bathroom or changing facility designated for use by the opposite sex:

- 22                   (1) For custodial purposes.  
23                   (2) For maintenance or inspection purposes.  
24                   (3) To render medical assistance.  
25                   (4) To accompany a student needing assistance when the assisting individual is an  
26                   employee or authorized volunteer of the local board of education or the  
27                   student's parent or authorized caregiver.  
28                   (5) To receive assistance in using the facility.  
29                   (6) To accompany a person other than a student needing assistance.  
30                   (7) That has been temporarily designated for use by that person's biological sex."

31                  **SECTION 1.3.** Chapter 143 of the General Statutes is amended by adding a new  
32 Article to read:

33                  "Article 81.

34                  "Single-Sex Multiple Occupancy Bathroom and Changing Facilities.

35                  **"§ 143-760. Single-sex multiple occupancy bathroom and changing facilities.**

- 36                  (a) Definitions. – The following definitions apply in this section:  
37                   (1) Biological sex. – The physical condition of being male or female, which is  
38                   stated on a person's birth certificate.  
39                   (2) Executive branch agency. – Agencies, boards, offices, departments, and  
40                   institutions of the executive branch, including The University of North Carolina  
41                   and the North Carolina Community College System.  
42                   (3) Multiple occupancy bathroom or changing facility. – A facility designed or  
43                   designated to be used by more than one person at a time where persons may be  
44                   in various states of undress in the presence of other persons. A multiple  
45                   occupancy bathroom or changing facility may include, but is not limited to, a  
46                   restroom, locker room, changing room, or shower room.  
47                   (4) Public agency. – Includes any of the following:  
48                   a. Executive branch agencies.  
49                   b. All agencies, boards, offices, and departments under the direction and  
50                   control of a member of the Council of State.  
51                   c. "Unit" as defined in G.S. 159-7(b)(15).

1           d. "Public authority" as defined in G.S. 159-7(b)(10).

2           e. A local board of education.

3           f. The judicial branch.

4           g. The legislative branch.

5           h. Any other political subdivision of the State.

6           (5) Single occupancy bathroom or changing facility. – A facility designed or  
7           designated to be used by only one person at a time where persons may be in  
8           various states of undress. A single occupancy bathroom or changing facility  
9           may include, but is not limited to, a single stall restroom designated as unisex  
10          or for use based on biological sex.

11          (b) Single-Sex Multiple Occupancy Bathroom and Changing Facilities. – Public agencies  
12          shall require every multiple occupancy bathroom or changing facility to be designated for and only  
13          used by persons based on their biological sex.

14          (c) Accommodations Permitted. – Nothing in this section shall prohibit public agencies  
15          from providing accommodations such as single occupancy bathroom or changing facilities upon a  
16          person's request due to special circumstances, but in no event shall that accommodation result in  
17          the public agency allowing a person to use a multiple occupancy bathroom or changing facility  
18          designated under subsection (b) of this section for a sex other than the person's biological sex.

19          (d) Exceptions. – This section does not apply to persons entering a multiple occupancy  
20          bathroom or changing facility designated for use by the opposite sex:

21           (1) For custodial purposes.

22           (2) For maintenance or inspection purposes.

23           (3) To render medical assistance.

24           (4) To accompany a person needing assistance.

25           (5) That has been temporarily designated for use by that person's biological sex."

## PART II. STATEWIDE CONSISTENCY IN LAWS RELATED TO EMPLOYMENT AND CONTRACTING

29          SECTION 2.1. G.S. 95-25.1 reads as rewritten:

### 30          "§ 95-25.1. Short title and legislative purpose; local governments preempted.

31          (a) This Article shall be known and may be cited as the "Wage and Hour Act."

32          (b) The public policy of this State is declared as follows: The wage levels of employees,  
33          hours of labor, payment of earned wages, and the well-being of minors are subjects of concern  
34          requiring legislation to promote the general welfare of the people of the State without jeopardizing  
35          the competitive position of North Carolina business and industry. The General Assembly declares  
36          that the general welfare of the State requires the enactment of this law under the police power of  
37          the State.

38          (c) The provisions of this Article supersede and preempt any ordinance, regulation,  
39          resolution, or policy adopted or imposed by a unit of local government or other political  
40          subdivision of the State that regulates or imposes any requirement upon an employer pertaining to  
41          compensation of employees, such as the wage levels of employees, hours of labor, payment of  
42          earned wages, benefits, leave, or well-being of minors in the workforce. This subsection shall not  
43          apply to any of the following:

44           (1) A local government regulating, compensating, or controlling its own  
45          employees.

46           (2) Economic development incentives awarded under Part 2H of Article 10 of  
47          Chapter 143B of the General Statutes.

48           (3) Economic development incentives awarded under Article 1 of Chapter 158 of  
49          the General Statutes.

50           (4) A requirement of federal community development block grants.

51           (5) Programs established under G.S. 153A-376 or G.S. 160A-456."

**SECTION 2.2.** G.S. 153A-449(a) reads as rewritten:

"(a) Authority. – A county may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the county is authorized by law to engage in. A county may not require a private contractor under this section to abide by any restriction that the county could not impose on all employers in the county, such as paying minimum wage or providing paid sick leave to its employees, regulations or controls on the contractor's employment practices or mandate or prohibit the provision of goods, services, or accommodations to any member of the public as a condition of bidding on a ~~contract~~contract or a qualification-based selection, except as otherwise required by State law."

**SECTION 2.3.** G.S. 160A-20.1(a) reads as rewritten:

"(a) Authority. – A city may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the city is authorized by law to engage in. A city may not require a private contractor under this section to abide by any restriction that the city could not impose on all employers in the city, such as paying minimum wage or providing paid sick leave to its employees, regulations or controls on the contractor's employment practices or mandate or prohibit the provision of goods, services, or accommodations to any member of the public as a condition of bidding on a ~~contract~~contract or a qualification-based selection, except as otherwise required by State law."

**PART III. PROTECTION OF RIGHTS IN EMPLOYMENT AND PUBLIC ACCOMMODATIONS****SECTION 3.1.** G.S. 143-422.2 reads as rewritten:**"§ 143-422.2. Legislative declaration.**

(a) It is the public policy of this State to protect and safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination or abridgement on account of race, religion, color, national origin, age, biological sex or handicap by employers which regularly employ 15 or more employees.

(b) It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment foments domestic strife and unrest, deprives the State of the fullest utilization of its capacities for advancement and development, and substantially and adversely affects the interests of employees, employers, and the public in general.

(c) The General Assembly declares that the regulation of discriminatory practices in employment is properly an issue of general, statewide concern, such that this Article and other applicable provisions of the General Statutes supersede and preempt any ordinance, regulation, resolution, or policy adopted or imposed by a unit of local government or other political subdivision of the State that regulates or imposes any requirement upon an employer pertaining to the regulation of discriminatory practices in employment, except such regulations applicable to personnel employed by that body that are not otherwise in conflict with State law."

**SECTION 3.2.** G.S. 143-422.3 reads as rewritten:**"§ 143-422.3. Investigations; conciliations.**

The Human Relations Commission in the Department of Administration shall have the authority to receive charges of discrimination from the Equal Employment Opportunity Commission pursuant to an agreement under Section 709(b) of Public Law 88-352, as amended by Public Law 92-261, and investigate and conciliate charges of discrimination. Throughout this process, the agency shall use its good offices to effect an amicable resolution of the charges of discrimination. This Article does not create, and shall not be construed to create or support, a statutory or common law private right of action, and no person may bring any civil action based upon the public policy expressed herein."

**SECTION 3.3.** Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 49B.

1                             "Equal Access to Public Accommodations.

2        **"§ 143-422.10. Short title.**

3                             This Article shall be known and may be cited as the Equal Access to Public Accommodations  
4                             Act.

5        **"§ 143-422.11. Legislative declaration.**

6                             (a) It is the public policy of this State to protect and safeguard the right and opportunity of  
7                             all individuals within the State to enjoy fully and equally the goods, services, facilities, privileges,  
8                             advantages, and accommodations of places of public accommodation free of discrimination  
9                             because of race, religion, color, national origin, or biological sex, provided that designating  
10                             multiple or single occupancy bathrooms or changing facilities according to biological sex, as  
11                             defined in G.S. 143-760(a)(1), (3), and (5), shall not be deemed to constitute discrimination.

12                             (b) The General Assembly declares that the regulation of discriminatory practices in places  
13                             of public accommodation is properly an issue of general, statewide concern, such that this Article  
14                             and other applicable provisions of the General Statutes supersede and preempt any ordinance,  
15                             regulation, resolution, or policy adopted or imposed by a unit of local government or other  
16                             political subdivision of the State that regulates or imposes any requirement pertaining to the  
17                             regulation of discriminatory practices in places of public accommodation.

18        **"§ 143-422.12. Places of public accommodation – defined.**

19                             For purposes of this Article, places of public accommodation has the same meaning as defined  
20                             in G.S. 168A-3(8), but shall exclude any private club or other establishment not, in fact, open to  
21                             the public.

22        **"§ 143-422.13. Investigations; conciliations.**

23                             The Human Relations Commission in the Department of Administration shall have the  
24                             authority to receive, investigate, and conciliate complaints of discrimination in public  
25                             accommodations. Throughout this process, the Human Relations Commission shall use its good  
26                             offices to effect an amicable resolution of the complaints of discrimination. This Article does not  
27                             create, and shall not be construed to create or support, a statutory or common law private right of  
28                             action, and no person may bring any civil action based upon the public policy expressed herein."

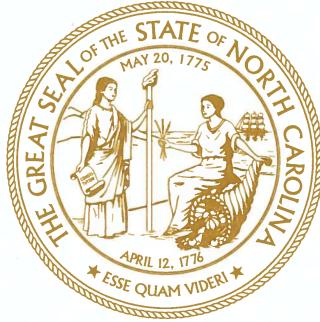
29                             **PART IV. SEVERABILITY**

30                             **SECTION 4.** If any provision of this act or its application is held invalid, the  
31                             invalidity does not affect other provisions or applications of this act that can be given effect  
32                             without the invalid provisions or application, and to this end the provisions of this act are  
33                             severable. If any provision of this act is temporarily or permanently restrained or enjoined by  
34                             judicial order, this act shall be enforced as though such restrained or enjoined provisions had not  
35                             been adopted, provided that whenever such temporary or permanent restraining order or injunction  
36                             is stayed, dissolved, or otherwise ceases to have effect, such provisions shall have full force and  
37                             effect.

38                             **PART V. EFFECTIVE DATE**

39                             **SECTION 5.** This act is effective when it becomes law and applies to any action  
40                             taken on or after that date, to any ordinance, resolution, regulation, or policy adopted or amended  
41                             on or after that date, and to any contract entered into on or after that date. The provisions of  
42                             Sections 2.1, 2.2, 2.3, 3.1, 3.2, and 3.3 of this act supersede and preempt any ordinance, resolution,  
43                             regulation, or policy adopted prior to the effective date of this act that purports to regulate a  
44                             subject matter preempted by this act or that violates or is not consistent with this act, and such  
45                             ordinances, resolutions, regulations, or policies shall be null and void as of the effective date of  
46                             this act.

## EXHIBIT B



# State of North Carolina

**PAT McCORY**  
GOVERNOR

**April 12, 2016**

### **EXECUTIVE ORDER NO. 93**

#### **TO PROTECT PRIVACY AND EQUALITY**

**WHEREAS**, North Carolina's rich legacy of inclusiveness, diversity and hospitality makes North Carolina a global destination for jobs, business, tourists and talent;

**WHEREAS**, it is the policy of the Executive Branch that government services be provided equally to all people;

**WHEREAS**, N.C. Gen. Stat. § 160A-499.2 permits municipalities to adopt ordinances prohibiting discrimination in housing and real estate transactions, and any municipality may expand such ordinance consistent with the federal Fair Housing Act;

**WHEREAS**, N.C. Gen. Stat. § 143-422.2(c) permits local governments or other political subdivisions of the State to set their own employment policies applicable to their own personnel;

**WHEREAS**, North Carolina law allows private businesses and nonprofit employers to establish their own non-discrimination employment policies;

**WHEREAS**, N.C. Gen. Stat. § 143-128.2 requires each city, county or other local public entity to adopt goals for participation by minority businesses and to make good faith efforts to recruit minority participation in line with those goals;

**WHEREAS**, North Carolina law allows a private business or nonprofit to set their own restroom, locker room or shower policies;

**WHEREAS**, our citizens have basic common-sense expectations of privacy in our restrooms, locker rooms and shower facilities for children, women and men;

**WHEREAS**, to protect expectations of privacy in restrooms, locker rooms and shower facilities in public buildings, including our schools, the State of North Carolina maintains these facilities on the basis of biological sex;

**WHEREAS**, State agencies and local governments are allowed to make reasonable accommodations in restrooms, locker rooms and shower facilities due to special individual circumstances;

**NOW, THEREFORE**, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

## **Section 1. Public Services**

In the provision of government services and in the administration of programs, including, but not limited to public safety, health and welfare, public agencies shall serve all people equally, consistent with the mission and requirements of the service or program.

## **Section 2. Equal Employment Opportunity Policy for State Employees**

I hereby affirm that the State of North Carolina is committed to administering and implementing all State human resources policies, practices and programs fairly and equitably, without unlawful discrimination, harassment or retaliation on the basis of race, religion, color, national origin, sex, sexual orientation, gender identity, age, political affiliation, genetic information, or disability.

I also affirm that private businesses, nonprofit employers and local governments may establish their own non-discrimination employment policies.

## **Section 3. Restroom Accommodations**

In North Carolina, private businesses can set their own rules for their own restroom, locker room and shower facilities, free from government interference.

Under current law, every multiple occupancy restroom, locker room or shower facility located in a cabinet agency must be designated for and only used by persons based on their biological sex. Agencies may make reasonable accommodations upon a person's request due to special circumstances.

Therefore, when readily available and when practicable in the best judgment of the agency, all cabinet agencies shall provide a reasonable accommodation of a single occupancy restroom, locker room or shower facility upon request due to special circumstances.

All council of state agencies, cities, counties, the University of North Carolina System and the North Carolina Community College System are invited and encouraged to make a similar accommodation when practicable.

## **Section 4. State Buildings and Facilities Leased to Private Entities**

The Department of Administration shall interpret the application of N.C. Gen. Stat. § 143-760 as follows:

When a private entity leases State real property and the property in the lessee's exclusive possession includes multiple occupancy restrooms, locker rooms or other like facilities, the private entity will control the signage and use of these facilities.

All council of state agencies, cities, counties, the University of North Carolina System and the North Carolina Community College System are invited and encouraged to adopt a similar interpretation of N.C. Gen. Stat. § 143-760.

## **Section 5. Human Relations Commission**

Pursuant to N.C. Gen. Stat. § 143B-391, the Human Relations Commission in the Department of Administration shall promote equality and opportunity for all citizens.

The Human Relations Commission shall work with local government officials to study problems and promote understanding, respect and goodwill among all citizens in all communities in North Carolina.

The Human Relations Commission shall receive, investigate and conciliate fair housing, employment discrimination and public accommodations complaints.

The Human Relations Commission shall submit an annual report by April 1st to the Governor detailing the number of complaints received, the number of investigations completed, and the number of conciliations in the preceding calendar year. This report shall also describe any education and outreach efforts made by the Commission in that same calendar year.

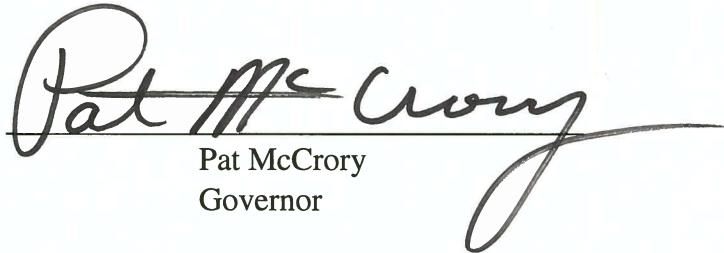
## **Section 6. State Cause of Action for Wrongful Discharge**

I support and encourage the General Assembly to take all necessary steps to restore a State cause of action for wrongful discharge based on unlawful employment discrimination.

## **Section 7. State or Federal Law**

Nothing in this section shall be interpreted as an abrogation of any requirements otherwise imposed by applicable federal or state laws or regulations.

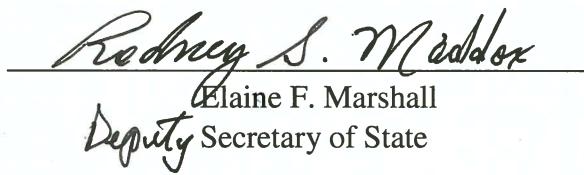
**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twelfth day of April in the year of our Lord two thousand and sixteen.



Pat McCrory  
Governor



ATTEST:



Rodney S. Maddox  
Elaine F. Marshall  
Deputy Secretary of State

ORDINANCE NUMBER: 7056

AMENDING CHAPTERS 2, 12, and 22

**AN ORDINANCE AMENDING CHAPTER 2 OF THE CHARLOTTE CITY CODE  
ENTITLED "ADMINISTRATION", CHAPTER 12 ENTITLED "HUMAN  
RELATIONS", AND CHAPTER 22 ENTITLED "VEHICLES FOR HIRE"**

**BE IT ORDAINED** by the City Council of the City of Charlotte, North Carolina, that:

**Section 1.** Article V of Chapter 2 of the Charlotte City Code is amended as follows:

"Sec. 2-151. - Policy statement.

It is the policy of the city not to enter into a contract with any business firm that has discriminated in the solicitation, selection, hiring or treatment of vendors, suppliers, subcontractors or commercial customers on the basis of race, gender, religion, national origin, ethnicity, age, marital status, familial status, sexual orientation, gender identity, gender expression, or disability, or on the basis of any otherwise unlawful use of characteristics regarding such vendor's, supplier's, or commercial customer's employees or owners in connection with a city contract or solicitation; provided that nothing in this commercial non-discrimination policy shall prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that has occurred or is occurring in the marketplace.

Sec. 2-152. - Purpose and intent.

It is the intent of the city to avoid becoming a passive participant in private sector commercial discrimination by refusing to procure goods and services from business firms that discriminate in the solicitation, selection, hiring, or treatment of vendors, suppliers, subcontractors, or commercial customers on the basis of race, gender, religion, national origin, ethnicity, age, marital status, familial status, sexual orientation, gender identity, gender expression, or disability in connection with city contracts or solicitations by providing a procedure for receiving, investigating, and resolving complaints of discrimination involving city contracts or solicitations.

Sec. 2-153. - Definitions.

For purposes of this article, the following terms have the meanings indicated unless the context clearly requires a different meaning.

...

*Discrimination* means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or treatment of a vendor, supplier, subcontractor or commercial customer on the basis of race, gender, religion, national origin, ethnicity, age, marital status, familial status, sexual orientation, gender identity, gender expression, or disability, or on the basis of any otherwise unlawful use of characteristics regarding such vendor's, supplier's, or commercial customer's employees or owners in connection with a city contract or solicitation;

provided that nothing in this definition or article shall prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that has occurred or is occurring in the marketplace.

...

Sec. 2-166. - Mandatory nondiscrimination contract clause.

Every contract and subcontract shall contain a nondiscrimination clause that reads substantially as follows:

As a condition of entering into this agreement, the company represents and warrants that it will fully comply with the city's commercial non-discrimination policy, as described in section 2, article V of the City Code, and consents to be bound by the award of any arbitration conducted thereunder. As part of such compliance, the company shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, age, marital status, familial status, sexual orientation, gender identity, gender expression, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, suppliers, or commercial customers in connection with a city contract or contract solicitation process, nor shall the company retaliate against any person or entity for reporting instances of such discrimination. The company shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its subcontracting and supply opportunities on city contracts, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace. The company understands and agrees that a violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification of the company from participating in city contracts or other sanctions.

Sec. 2-167. - Contractor bid requirements.

All requests for bids or proposals issued for city contracts shall include a certification to be completed by the bidder or proposer in substantially the following form:

The undersigned bidder or proposer hereby certifies and agrees that the following information is correct:

1. In preparing ~~it's~~ the its enclosed bid or proposal, the bidder or proposer has considered all bids and proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in discrimination as defined in section 2.
2. For purposes of this section, discrimination means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor, supplier or commercial customer on the basis of race, ethnicity, gender, age, religion, national origin, marital status, familial status, sexual orientation, gender identity, gender expression, disability or any otherwise unlawful form of discrimination. Without limiting the foregoing, discrimination also includes retaliating against any person or other entity for reporting any incident of discrimination.

3. Without limiting any other remedies that the city may have for a false certification, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the city to reject the bid or proposal submitted with this certification, and terminate any contract awarded based on such bid or proposal. It shall also constitute a violation of the city's commercial non-discrimination ordinance and shall subject the bidder or proposer to any remedies allowed thereunder, including possible disqualification from participating in city contracts or bid processes for up to two years.
4. As a condition of contracting with the city, the bidder or proposer agrees to promptly provide to the city all information and documentation that may be requested by the city from time to time regarding the solicitation and selection of suppliers and subcontractors in connection with this solicitation process. Failure to maintain or failure to provide such information shall constitutes grounds for the city to reject the bid or proposal and to any contract awarded on such bid or proposal. It shall also constitute a violation of the city's commercial non-discrimination ordinance, and shall subject the bidder or proposer to any remedies that are allowed thereunder.
5. As part of its bid or proposal, the bidder or proposer shall provide to the city a list of all instances within the past ten years where a complaint was filed or pending against bidder or proposer in a legal or administrative proceeding alleging that bidder or proposer discriminated against its subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that complaint, including any remedial action taken.
6. As a condition of submitting a bid or proposal to the city the bidder or proposer agrees to comply with the city's commercial non-discrimination policy as described in section 2, article V of the city code, and consents to be bound by the award of any arbitration conducted thereunder."

Section 2. Article II of Chapter 12 of the Charlotte City Code is amended as follows:

"Sec. 12-27. - Powers.

Within the limitations provided by law, the community relations committee created under this article has the power to:

- ...
- (9) Render at least annually a written report to the mayor and to the city council and to the chairman and the board of county commissioners. The report may contain recommendations of the committee for legislation or other actions to eliminate or reduce discrimination with respect to race, color, religion, sex, marital status, familial status, sexual orientation, gender identity, gender expression, or national origin.
- ...

Sec. 12-29. - Powers of conciliation division.

Within the limitations provided by law, the conciliation division of the community relations committee created by this article has the power to:

- ...  
(3) Approve or disapprove plans to eliminate or reduce discrimination with respect to race, color, religion, sex, marital status, familial status, sexual orientation, gender identity, gender expression, or national origin;

..."

Section 3. Article III of Chapter 12 of the Charlotte City Code is amended as follows:

"Sec. 12-58. - Prohibited acts.

(a) It shall be unlawful to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of race, color, religion, sex, marital status, familial status, sexual orientation, gender identity, gender expression, or national origin.

(b) It shall be unlawful to make, print, circulate, post, mail or otherwise cause to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation will be refused, withheld from, or denied any person because of race, color, religion, sex, marital status, familial status, sexual orientation, gender identity, gender expression, or national origin, or that any person's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of race, color, religion, sex, marital status, familial status, sexual orientation, gender identity, gender expression, or national origin; provided, however, this section does not apply to a private club or other establishment not, in fact, open to the public.

See. 12-59. Prohibited sex discrimination.

(a) ~~It shall be unlawful to deny a person, because of sex, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a restaurant, hotel, or motel.~~

(b) ~~This section shall not apply to the following:~~

- (1) ~~Restrooms, shower rooms, bathhouses and similar facilities which are in their nature distinctly private.~~
- (2) ~~YMCA, YWCA and similar types of dormitory lodging facilities.~~
- (3) ~~A private club or other establishment not, in fact, open to the public."~~

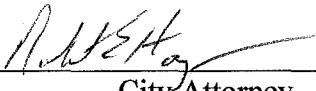
Section 4. Article II of Chapter 22 of the Charlotte City Code is amended as follows:

"Sec. 22-31. - Conduct of certificate holders, permit holders, drivers.  
...

(i) No company operating certificate holder, vehicle operating permit holder, or driver shall refuse or neglect to transport any person on the basis of race, color, religion, sex, marital status, familial status, sexual orientation, gender identity, gender expression, or national origin. In addition, no company operating certificate holder, vehicle operating permit holder, or driver shall refuse or neglect to transport any person on the basis of disability when such service can be provided to a person with a disability with reasonable accommodation."

Section 5. This ordinance shall be effective April 1, 2016.

Approved as to form

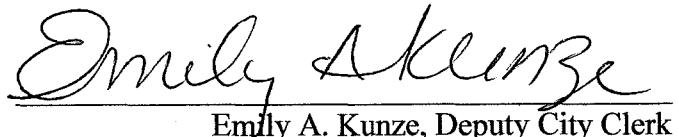


City Attorney

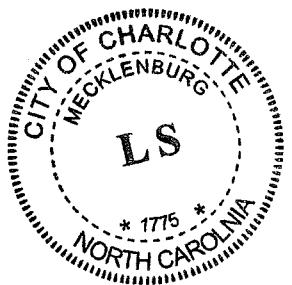
**CERTIFICATION**

I, Emily A. Kunze, Deputy City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 22nd day of February 2016 the reference having been made in Minute Book 140, and recorded in full in Ordinance Book 59, Page(s)743-747.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, the 22nd day of February, 2016.



Emily A. Kunze  
Emily A. Kunze, Deputy City Clerk



# EXHIBIT D

1

NORTH CAROLINA GENERAL ASSEMBLY  
NORTH CAROLINA HOUSE OF REPRESENTATIVES

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TRANSCRIPT OF THE PROCEEDINGS  
FLOOR SESSION, DEBATE ON HOUSE BILL 2

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In Raleigh, North Carolina  
Wednesday, March 23, 2016  
Transcribed by Brad Worley

Worley Reporting  
P.O. Box 99169  
Raleigh, NC 27624  
919-870-8070

House Floor Debate  
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Pages 2 to 5

<p>1                   (Beginning of audio.) 2                   SPEAKER MOORE: Representatives 3                   Blackwell, Bryan and Schaffer are recognized to 4                   send forth a committee report. The Clerk will 5                   read. 6                   CLERK: Representatives Blackwell, Bryan 7                   and Schaffer, Judiciary IV Committee report, House 8                   Bill 2, Public Facilities Privacy and Security Act, 9                   favorable. 10                  SPEAKER MOORE: Calendar. Members on 11                  motion of Representatives Brawley, Moore, Bishop 12                  and all members of the Mecklenburg delegation, the 13                  Chair is happy to extend the courtesies of the 14                  gallery to City Councilmen Ed Driggs and LaWana 15                  Mayfield. Would you all please stand so we can 16                  recognize you and thank you for being with us 17                  today? 18                  (Applause.) 19                  Calendar. House Bill 2. The Clerk will 20                  read. 21                  CLERK: Representatives Bishop, Stam, 22                  Howard and Steinburg. House Bill 2, A Bill to be 23                  Entitled Acts to Provide for Single-Sex Multiple 24                  Occupancy Bathrooms and Changing Facilities in 25                  Schools and Public Agencies and to Create Statewide</p>	2
<p>1                   United -- the Articles of Confederation, we 2                   realized that we needed a true nation, and so the 3                   Constitution protects interstate commerce and 4                   requires the recognition of foreign judgments so 5                   that we can collect the debts from those people in 6                   Representative Tine's and Steinburg's districts. I 7                   think they're still there. If they move toward 8                   free flow of commerce and interstate commerce -- 9                   and that's why the United States is the economic 10                  powerhouse of the world, plus natural resources. 11                  In North Carolina, there's been a 12                  continual struggle for free intrastate commerce. 13                  Until 1835, people came down here to Raleigh; they 14                  didn't have nice seats like this, but they came to 15                  the other building, and they brought all sorts of 16                  crazy economic things that would just apply to 17                  their town. And in the Constitution of 1835, we 18                  said in Article 2, Section 24, there'll be no local 19                  bills on trade. We want intrastate commerce to be 20                  free. That is one of the main thrusts of this 21                  bill, that when people want to do business, in this 22                  state, on matters of employment rights, that 23                  there'll be a common market without -- throughout 24                  the state. 25                  Common expectations. If a person travels</p>	4
<p>1                   Consistency and Regulation of Employment and Public 2                   Accommodations. The General Assembly of North 3                   Carolina enacts. 4                   SPEAKER MOORE: For what purpose does the 5                   gentleman from Wake, Representative Stam, arise? 6                   REP. STAM: To speak on the bill. 7                   SPEAKER MOORE: The gentleman has the 8                   floor to debate the bill. Members of the House 9                   will come to order. Members are asked to please 10                  take their seats, or if members would like to have 11                  a conversation, would ask members to please step 12                  off the floor to do so. The gentleman from Wake 13                  has the floor to debate the bill. 14                  REP. STAM: Thank you, Mr. Speaker. 15                  Members of the House, this is a common sense bill 16                  that protects the privacy expectations of our 17                  citizens, while clarifying local authority. 18                  Representative Bishop will give us a 19                  paragraph-by-paragraph explanation. Would the 20                  House indulge me if I went into history, just 21                  the -- three or four minutes? 22                  In 1669, the first law passed by the 23                  Assembly, the Albemarle Assembly, protected debtors 24                  fleeing from Virginia and South Carolina. This was 25                  not a good thing for commerce. In 1787, the</p>	3
<p>1                   to Hickory, they don't expect a different rule in 2                   the government facilities of Hickory of who can be 3                   in -- who can be in a washroom. They don't want -- 4                   if they want to bid on a contract in Hickory, they 5                   can expect that they can pay their employees 6                   according to the law and there won't be some 7                   special deal just for Hickory. This will help the 8                   economy of the state greatly and recognize the 9                   privacy rights of every citizen of this state. 10                  SPEAKER MOORE: For what purpose does the 11                  gentleman from Mecklenburg, Representative Bishop, 12                  rise? 13                  REP. BISHOP: To debate the bill. 14                  SPEAKER MOORE: The gentleman has the 15                  floor to debate the bill. 16                  REP. BISHOP: Thank you, Mr. Speaker. As 17                  we just did, in a good committee meeting, I'd like 18                  to, briefly, tick through the three parts of the 19                  bill and address the various components, for the 20                  benefit of all the members. 21                  The bill begins with a recitation of the 22                  constitutional principles that Representative Stam 23                  just referred to, that the General Assembly may not 24                  enact local laws on -- or local acts -- regulating 25                  labor, trade, mining and manufacturing, topics of</p>	5

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1 commerce, business, and also that localities, 2 cities and counties, have the powers that are 3 delegated to them by the General Assembly. 4 Beginning with that premise, we then have three 5 parts of the substantive provisions of the bill. 6 Part one concerns single-sex multiple 7 occupancy bathroom and changing facilities and 8 within that part there are two sections: one for 9 K-12 public schools, one for state agency local 10 government facilities. In both instances, what 11 we're establishing is that bathrooms and other 12 distinctly private facilities will be maintained 13 according to -- and designated according to 14 biological sex, and that the usage of them will be 15 in accordance with that. 16 Biological sex, the sections both state, 17 is the physical condition of being male or female, 18 which is stated on a person's birth certificate. I 19 made the point in committee and will make it again 20 here, that our existing laws concerning the content 21 of birth certificates provides that if someone has 22 sex-reassignment surgery and that's certified by a 23 physician, their birth certificate can be amended 24 as to the gender. Both of these provisions, in 25 setting forth that if there are multiple occupancy	6	1 their contracting relationships. 2 I'm sorry. I omitted to mention one 3 thing about the first part that's very, very 4 important. As I said, as to multi-occupancy 5 bathroom facilities and other distinctly private 6 facilities, the regulation concerns government 7 facilities only. It mandates nothing with respect 8 to private businesses. They're free to adopt the 9 policies they seem -- they deem most appropriate. 10 So, back to part two. 11 Governments, local governments, cannot 12 impose employment and selling policies on their 13 contracting partners, who are private businesses. 14 And the third provision, which I'm going to come to 15 last, Section 2.1, makes clear that local 16 governments also cannot mandate wage practices in 17 private businesses. 18 And the reason it's here is because the 19 two provisions that we've modified in Sections 2.2 20 and 2.3 previously were modified in 2013 to make 21 clear that local governments could not mandate wage 22 policies through their contracting. We've now 23 generalized that, appropriately, and we've made it 24 a subject of what we call field preemption. 25 The North Carolina Wage and Hour Act	8
1 facilities, they'll be by sex, also says that there 2 is nothing to preclude any of these government 3 bodies from having single-sex or having -- having 4 single occupancy facilities that are designated 5 according to sex or unisex. 6 Nor are -- and there also are several 7 exceptions that apply. For example, if someone 8 needs to go into the restroom or changing facility 9 to assist another person, and those are set forth 10 in detail. 11 The second part of the bill goes to the 12 part -- second and third parts relate to clarifying 13 the limits of local authority, for the sake of 14 having uniform and statewide consistency in 15 business regulation. So part two makes those 16 provisions in two respects. 17 If you look at sections 2.2 and 2.3 on 18 Page 4, those say that when a local government 19 contracts with a vendor, a contractor to build a 20 building or a contractor to sell something, or 21 contracts for competitions for professional 22 services, in those events, cities and counties 23 cannot impose employment practices and/or policies 24 concerning the sales or -- or provision of goods, 25 services or accommodations to the public through	7	1 already provides a complete and integrated 2 legislative scheme regulating wages and conditions 3 of employment, and we simply added a statement that 4 the law, candidly, already should reflect -- I 5 mean, that is to say, it is the law, although some 6 may dispute it or some may attempt to overstep it, 7 that the Wage and Hour Act preempts local 8 governments and -- and disallows them from 9 regulating in the same field. They cannot regulate 10 wage policy of private businesses. They can set 11 wage policy for themselves any way they want to. 12 Part 3 concerns protection of rights in 13 employment and public accommodations. For the 14 first time, we are proposing that the General 15 Assembly enact a statement, a public policy 16 statement, on public accommodations discrimination, 17 disapproving that. Since 1976, we've had a 18 parallel statement of public policy against 19 employment discrimination. And both of these 20 policies cover all suspect and quasi-suspect 21 classifications recognized by the United States 22 Supreme Court: race, color, religion, national 23 origin, sex. They also cover, in the one instance, 24 the employment discrimination, age and handicap. 25 Those two are not added to the statement	9

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<p>1       of public policy concerning public accommodations 2       discrimination. I'd like to take just a moment to 3       explain why. Age is uniquely appropriate for 4       protection in the -- in the employment 5       circumstance, and -- and that's why it appears in 6       the Employment Policy and not in the Public 7       Accommodations Policy. Handicap is actually 8       covered comprehensively in Employment as well as in 9       Public Accommodations in another part of the 10      General Statutes, Chapter 168A.</p> <p>11       And there was a case in 2015 from the 12      Court of Appeals on the employment discrimination 13      side, in which the fact that handicap is mentioned 14      here, but not robustly treated here, a plaintiff 15      lost rights by bring their claim for relief under 16      the wrong law. The Court said had they proceeded 17      under 168A, they wouldn't have fallen into the trap 18      of not having secured their rights most robustly. 19      So, we've omitted that, because it would only be 20      window dressing to repeat that in the public 21      accommodations non-discrimination part.</p> <p>22       But this is historic. There's never been 23      such a statewide non-discrimination statement on 24      public accommodations in North Carolina, and we're 25      doing it here. For both of these statements of</p>	<p>10</p> <p>1       provides that this act becomes effective when it 2       becomes law and applies to any action taken on or 3       after that date, to any ordinance, resolution, 4       regulation or policy adopted or amended after -- on 5       or after that date or to any contract entered into 6       on or after that date. However, the provisions 7       concerning preemption will apply immediately, and 8       to prior ordinances, preempting those and ending 9       their effect as a matter of law. Thank you, Mr. 10      Speaker.</p> <p>11       REP. JACKSON: Mr. Speaker?</p> <p>12       SPEAKER MOORE: Just -- just a -- just a 13      moment, if you would. The Chair would like to 14      extend the courtesies of the floor to two 15      individuals. First of all, former Representative 16      Rick Glazier, who recently retired from us. Rick, 17      glad to have you here today with us. Please join 18      me in welcoming Representative Glazier. 19       (Applause.)</p> <p>20       Additionally, the Chair is happy to 21      extend the courtesies of the gallery to 22      Representative-Elect Holly Grange, who will be 23      replacing Representative Catlin from New Hanover 24      County. Glad to have you here as well today. 25       (Applause.)</p>
<p>11</p> <p>1       public policy, we've also done something else that 2       clarifies law; clarifies law concerning the 3       authority of localities. And that is to say, to 4       state, even though it would have otherwise been 5       evident in a court decision, that these -- that we 6       are regulating the field comprehensively. We are 7       preempting the field. That means that localities 8       are not free to adopt a patchwork of inconsistent 9       law governing these business practices across the 10      state.</p> <p>11       In each case, that is to say in the 12      employment practices or employment discrimination, 13      as well as public accommodations discrimination 14      policy statements, the Human Resources Commission 15      of the Department of Administration is empowered to 16      receive complaints, investigate and conciliate 17      complaints arising under those areas.</p> <p>18       Also, for the sake of consistency, places 19      of public accommodation -- the definition is 20      borrowed, by reference, from the Disability -- 21      Anti-Discrimination Statute so that, again, we 22      don't have inconsistency in terms of what 23      constitutes a public accommodation.</p> <p>24       The remainder of the bill, other than a 25      severability provision, is Part 5, and it merely</p>	<p>11</p> <p>1       REP. JACKSON: Mr. Speaker? Mr. Speaker? 2       SPEAKER MOORE: And the Chair is not 3       being too presumptive; she has no opponent in the 4       fall, so -- let's see. The gentleman -- I believe 5       the Chair noticed Representative Jackson stood 6       first. So, for what purpose does the gentleman 7       from Wake, Representative Jackson, rise? 8       REP. JACKSON: To ask Representative 9       Bishop a question about his explanation. 10       SPEAKER MOORE: Does the gentleman from 11      Mecklenburg yield to the gentleman from Wake? 12       REP. BISHOP: I do. 13       SPEAKER MOORE: He yields. 14       REP. JACKSON: Representative Bishop, 15      thank you for that. I'm looking at Page 4, Section 16      3.2. Right at the bottom of the page, there's a 17      line. The new part of that section reads, "This 18      article does not create and shall not be construed 19      to create or support a statutory or common law 20      private right of action, and no person may bring 21      any civil action based upon the public policy 22      expressed herein." Do you see that? 23       REP. BISHOP: I do. 24       REP. JACKSON: I'll -- 25       SPEAKER MOORE: Does the gentleman yield</p>

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<p>1 to an additional question?</p> <p>2 REP. BISHOP: I yield.</p> <p>3 SPEAKER MOORE: He yields.</p> <p>4 REP. JACKSON: And would I be correct if</p> <p>5 I stated that Section 143-422.2 is also in that</p> <p>6 same article? Is that correct?</p> <p>7 REP. BISHOP: That is correct.</p> <p>8 REP. JACKSON: And -- Mr. Speaker, follow</p> <p>9 up.</p> <p>10 SPEAKER MOORE: Gentleman wish to ask an</p> <p>11 additional question?</p> <p>12 REP. JACKSON: I do.</p> <p>13 SPEAKER MOORE: And does the gentleman</p> <p>14 from Mecklenburg yield to an additional question?</p> <p>15 REP. BISHOP: I yield.</p> <p>16 SPEAKER MOORE: He yields.</p> <p>17 REP. JACKSON: And so the effect of</p> <p>18 putting that line in this -- in this proposed</p> <p>19 legislation would be to eliminate all wrongful</p> <p>20 discharge state law lawsuits against public policy.</p> <p>21 Is that correct?</p> <p>22 REP. BISHOP: No.</p> <p>23 REP. JACKSON: Follow-up?</p> <p>24 SPEAKER MOORE: Does the gentleman yield</p> <p>25 to an additional question?</p>	<p>1 This is one of them. That is to say, this has been</p> <p>2 read by courts to provide the basis of -- one of</p> <p>3 the examples of a basis for public policy discharge</p> <p>4 claim for relief.</p> <p>5 And it's true, this language would end</p> <p>6 that particular action, but in those cases, if</p> <p>7 there is an employment discrimination violation,</p> <p>8 the plaintiff in that situation, already has far</p> <p>9 more robust relief under Title 7 of the federal</p> <p>10 Civil Rights Act of 1964 than they have under this</p> <p>11 provision. It costs them nothing substantively and</p> <p>12 was necessary to make parallel the two provisions</p> <p>13 that we are proposing to enact.</p> <p>14 REP. JACKSON: Follow-up, Mr. Speaker?</p> <p>15 SPEAKER MOORE: Does the gentleman yield</p> <p>16 to an additional question?</p> <p>17 REP. BISHOP: I yield.</p> <p>18 SPEAKER MOORE: He yields.</p> <p>19 REP. JACKSON: You would agree with me</p> <p>20 that federal court rights and state court rights</p> <p>21 would be two different constitutional rights. Is</p> <p>22 that correct?</p> <p>23 REP. BISHOP: Well, we're talking about</p> <p>24 statutory rights, not constitutional rights, but</p> <p>25 yes. The Title 7 has far more robust private</p>
<p>15</p> <p>1 REP. BISHOP: I yield.</p> <p>2 SPEAKER MOORE: He yields.</p> <p>3 REP. JACKSON: Does it not say that no</p> <p>4 person shall bring any civil action based upon the</p> <p>5 public policy expressed herein?</p> <p>6 REP. BISHOP: That's what it says.</p> <p>7 REP. JACKSON: But you don't believe --</p> <p>8 SPEAKER MOORE: Does the gentleman</p> <p>9 yield -- does the gentleman yield to an additional</p> <p>10 question?</p> <p>11 REP. BISHOP: I yield.</p> <p>12 SPEAKER MOORE: He yields.</p> <p>13 REP. JACKSON: But it's your belief that</p> <p>14 you would still have a Section 422.2 wrongful</p> <p>15 discharge against public policy lawsuit if this</p> <p>16 bill passes?</p> <p>17 REP. BISHOP: There is no such thing as a</p> <p>18 422.2 wrongful discharge lawsuit. There is -- if I</p> <p>19 may explain.</p> <p>20 The courts of North Carolina, under the</p> <p>21 common law, have created a right of action for --</p> <p>22 for violation of public policy in a termination of</p> <p>23 employment. But it's not created by the statute.</p> <p>24 It exists as a matter of common law, and it can</p> <p>25 exist for a variety of public policy violations.</p>	<p>17</p> <p>1 rights and remedies for someone who suffers</p> <p>2 employment discrimination than are afforded by this</p> <p>3 statute here -- or afforded as -- by virtue of the</p> <p>4 public policy expressed in this statute.</p> <p>5 REP. JACKSON: Follow-up, Mr. Speaker?</p> <p>6 SPEAKER MOORE: Does the gentleman from</p> <p>7 Mecklenburg yield to an additional question?</p> <p>8 REP. BISHOP: I yield.</p> <p>9 SPEAKER MOORE: He yields.</p> <p>10 REP. JACKSON: Okay. So, looking at the</p> <p>11 case law under that statute, there was a lady who</p> <p>12 was fired for wrongful discharge because she</p> <p>13 refused to provide sexual favors to her employer,</p> <p>14 and the court held that she would have a case for</p> <p>15 wrongful discharge under Statute 143-422.2 in state</p> <p>16 court, and I ask you if we pass this law, would she</p> <p>17 still have that right tomorrow?</p> <p>18 REP. BISHOP: Well, I don't know if</p> <p>19 that's an accurate reading of what the case would</p> <p>20 say. It may say that she has a right of action for</p> <p>21 public -- for -- for public -- discharge in</p> <p>22 violation of public policy informed by this</p> <p>23 statute, but it wouldn't be brought under the</p> <p>24 statute. And she certainly would have a claim for</p> <p>25 relief under Title 7, with rights of back pay.</p>

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<p>1 front pay, reinstatement, punitive damages, 2 attorney's fees, et cetera. She'd have, as I said, 3 far more robust relief under Title 7 than she would 4 have under this -- under the public policy 5 termination common law right of action informed by 6 this statement of public policy, along with many 7 other states of -- statements of public policy.</p> <p>8 REP. JACKSON: Follow up, Mr. Speaker?</p> <p>9 SPEAKER MOORE: Does the gentleman from 10 Mecklenburg yield to an additional question?</p> <p>11 REP. BISHOP: I yield.</p> <p>12 SPEAKER MOORE: He yields.</p> <p>13 REP. JACKSON: If this young lady lived 14 in -- if she lived at the coast, where would she 15 file such a Title 7 action?</p> <p>16 REP. BISHOP: She would file a charge of 17 discrimination with the Equal Employment 18 Opportunity Commission, and from that point -- I 19 mean, I can go through the whole process with you 20 if you want to, but she would file it in a regional 21 EEOC office --</p> <p>22 REP. JACKSON: Right.</p> <p>23 REP. BISHOP: -- originally. And then, 24 depending on how the charge was disposed of, she or 25 the EEOC would bring the -- a lawsuit in the</p>	<p>18</p> <p>1 that they will have fewer claims of relief and 2 potential avenues of recovery with passage of this 3 bill?</p> <p>4 REP. BISHOP: It's conceivable. Let me 5 make sure that I'm clear as I say this for the 6 folks who are non-lawyers. As you know, 7 Representative Jackson, when we file a lawsuit, we 8 name in the lawsuit all of the claims, all of the 9 legal claim theories that we can think of. But as 10 it also turns out, in many, many cases, it's 11 superfluous. That is, what you're interested in if 12 you're a plaintiff is what remedies do I get? 13 And that's why I've spoken over and over 14 again about the remedial rights that are available 15 under federal non-discrimination law. They are 16 very robust. There is nothing forfeited to a 17 plaintiff by not having a public policy cause of 18 action for this specific public policy issue, by 19 virtue of the change in this bill. They'll have 20 ample rights under federal law, as we've kind of 21 illustrated by our interchange.</p> <p>22 SPEAKER MOORE: For what purpose does the 23 lady from Mecklenburg, Representative Cotham, rise?</p> <p>24 REP. COTHAM: Thank you, Mr. Speaker. To 25 debate House Bill 2.</p>
<p>1 appropriate court where she lives. So, if you're 2 asking -- maybe you're asking about which court 3 system. She could bring it in state or federal 4 court. It could be removed to federal court. 5 That's usually what employers want to do.</p> <p>6 REP. JACKSON: Follow up, Mr. Speaker.</p> <p>7 SPEAKER MOORE: Does the gentleman yield 8 to an additional question?</p> <p>9 REP. BISHOP: I yield.</p> <p>10 SPEAKER MOORE: He yields.</p> <p>11 REP. JACKSON: How about an employee who 12 is filed -- who is wrongfully discharged because of 13 their race? Would they have a state claim of 14 action, after this bill passes?</p> <p>15 REP. BISHOP: They would have a federal 16 claim for relief under Title 7. They also would 17 have another claim for federal relief under 42 -- 18 42 USE 1981.</p> <p>19 REP. JACKSON: Final question, Mr. 20 Speaker.</p> <p>21 SPEAKER MOORE: Does the gentleman yield 22 to a final question?</p> <p>23 REP. BISHOP: I yield.</p> <p>24 SPEAKER MOORE: He yields.</p> <p>25 REP. JACKSON: Would it be fair to say</p>	<p>19</p> <p>1 SPEAKER MOORE: The lady has the floor to 2 debate the bill.</p> <p>3 REP. COTHAM: Thank you, Mr. Speaker. 4 Well, well, well. Here we are again, in a special 5 session. This time we are here to meddle in the 6 affairs of local government and disrespect local 7 elected leaders. This -- this special session is 8 clearly about -- and it was obvious in the 9 committee we were just in -- that this is to 10 advance some political careers and tarnish other 11 political careers in an election year. Imagine 12 that.</p> <p>13 We must not allow fear-mongering and 14 discrimination against others. It has no place in 15 North Carolina, in this building, or any other 16 building. We must be a state that is inclusive --</p> <p>17 REP. STEVENS: Mr. Speaker?</p> <p>18 SPEAKER MOORE: Just a moment. For what 19 purpose does the lady from Surry, Representative 20 Stevens, arise?</p> <p>21 REP. STEVENS: To see if the lady will 22 yield for a question.</p> <p>23 SPEAKER MOORE: Does the lady --</p> <p>24 REP. COTHAM: I will not at this time.</p> <p>25 SPEAKER MOORE: Does the lady from</p>

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1 Mecklenburg yield to the lady from Surry? 2 REP. COTHAM: I will not. 3 SPEAKER MOORE: She does not yield at 4 this time. The lady from Mecklenburg continues to 5 have the floor to debate the bill. 6 REP. COTHAM: Thank you, Mr. Speaker. We 7 must be a state that is inclusive and welcomes 8 everyone in North Carolina and protects everyone, 9 every citizen in North Carolina. What we are doing 10 here today on this House floor is a bill that flies 11 in the face of inclusiveness. You all know this. 12 This is no surprise. Many of us, on my side of the 13 aisle especially, have focused very hard on 14 inclusiveness. I would hope that you would join 15 our fight. 16 As you know, I represent Charlotte and 17 Mecklenburg, along with many of you in here. We 18 hear from many people in Charlotte that they are 19 absolutely fed up with this Chamber's actions to 20 take part in hurting our city. It's not our first 21 time being the target, as you all know. Instead, 22 people want to talk about opportunities like a 23 great education or having a good-paying job that 24 could improve their lives, not about what we are 25 here doing today.	1 And you are absolutely not protecting 2 children, and you are not protecting women. There 3 going to be many other points raised by my 4 colleagues about why this bill is so bad. I'm 5 asking you all to vote no. I will. Thank you. 6 SPEAKER MOORE: What purpose says the 7 gentleman from Durham, Representative Michaux, 8 arise? 9 REP. STEVENS: Mr. Speaker, I was just 10 going to see if she'd yield for a question now. 11 SPEAKER MOORE: I'm sorry. The Chair 12 will -- the Chair will entertain that. Does the 13 lady from Mecklenburg yield to the lady of Surry 14 for a question? 15 REP. COTHAM: No. 16 SPEAKER MOORE: She does not. Now, the 17 gentleman -- what purpose does the gentleman from 18 Durham, Representative Michaux, rise? 19 REP. MICHAUX: To speak on the bill and 20 for a motion after I speak. 21 SPEAKER MOORE: The gentleman is first 22 recognized to debate the bill. 23 REP. MICHAUX: Mr. Speaker and ladies and 24 gentlemen of the House, we have a bill before us 25 that we just got a chance to get a five-minute read
1 The voters of Charlotte elected the men 2 and women on the City Council to represent them. 3 They won. That's their choices. We should allow 4 the elected members to make decisions on behalf of 5 the people who elected them, not doing what we want 6 to do because we can. We should respect all 7 elected leaders. 8 But I want to talk about a part that's a 9 bit personal, and it's going to be personal to some 10 of you in this Chamber and maybe many listening. 11 As many of you know, I've had two babies while 12 serving here. They are young. They are not of 13 school age, and if any mother or father, but I'll 14 talk about myself, have to use the bathroom, this 15 bill says if I need to use the bathroom because I 16 have to go, not to accompany or help my child, but 17 because mommy has to go, my five-year-old and 18 two-year-old cannot come into the bathroom with me. 19 That's a serious problem, and that's 20 going to affect many people in North Carolina. I 21 think we are sending the absolute wrong message to 22 the people of North Carolina and especially to the 23 business community, of so many jobs that all of us 24 have talked about, that we are trying to attract 25 here in North Carolina.	1 on during the meeting of the Committee, and it's a 2 bill that addresses approximately three or four 3 other ideas or other subjects other than what we 4 were expected to come in here and vote on. I would 5 call your attention -- you've got Parts 1, Parts 2 6 and Part 3 of this bill, and that they are all 7 different and separate parts of the bill. Mr. 8 Speaker, if you will? 9 For instance, the major reason that we're 10 here is found in Part 1 of the bill. But what has 11 been added to that is a usurpation of power for our 12 municipalities and our counties, involving 13 employment practices, involving public 14 accommodations practices, involving a lot of things 15 that we thought -- that had been, really, 50 to 60 16 years in the making, and which we have been living 17 fairly well with. 18 One of the things -- let me just give you 19 one little example of something in this bill. On 20 Page 5 of the bill, where it's -- it says Section 21 143-422-13, Investigation Conciliations. It says 22 that the Human Relations Commission in the 23 Department of Administration shall have the 24 authority. The question was asked in Committee 25 meeting, well, the Human Relations Commission, in

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1       the budget, has not been funded. They have been 2       defunded. The answer to that was, well, there are 3       funds available. But they are not recurring funds 4       in order to take care of any situation that may 5       arise under that.  6       As a result of this and having looked at 7       the bill, Mr. Speaker, and knowing that many of the 8       people -- there are people on our side who may want 9       to vote for Part 1. There are some on your side 10      who may not want to vote for Part 2 or Part 3 11      because of the usurpation of power of local 12      governments. We all have talked about how we like 13      things to happen at a local level, and what you're 14      doing in here is taking away complete and total 15      authority from those particular bodies. And with 16      that, Mr. Speaker --  17      REP. STAM: Mr. Speaker, Mr. Speaker? 18      SPEAKER MOORE: For what purpose does the 19      gentleman from Wake, Representative Stam, rise? 20      REP. STAM: Would Representative Michaux 21      yield for one question on that point for me? 22      SPEAKER MOORE: Does the gentleman from 23      Durham yield for the gentleman from Wake? 24      REP. MICHAUX: I yield. Yes, sir. 25      SPEAKER MOORE: He yields.	26  1       REP. BISHOP: Representative, do you 2       believe it's important that cities and counties act 3       within their legal authority? 4       REP. MICHAUX: I believe that the -- that 5       cities and counties should act within their legal 6       authority, as long as it's for the betterment of 7       their community. They are the ones that are closer 8       to the people than -- really, than we are, and they 9       are the ones that ought to be able to make 10      decisions for themselves and not have us do it up 11      here. 12      REP. BISHOP: Follow-up, Mr. Speaker. 13      SPEAKER MOORE: Does the gentleman from 14      Durham yield to an additional question? 15      REP. MICHAUX: Yes, sir. I yield. 16      SPEAKER MOORE: He yields. 17      REP. BISHOP: Wouldn't you agree, though, 18      that the rule of law requires that they follow the 19      limitations on their authority that are set forth 20      in statutes from the General Assembly? 21      REP. MICHAUX: I would agree. I would 22      agree also that states are required to do the same 23      thing as -- considering it's federal law and the 24      Constitution. 25      REP. BISHOP: Thank you, sir.
27  1       REP. STAM: Representative Michaux, I 2       know you don't have a statute book in front of you, 3       but could you tell us what statute gives local 4       government the authority to regulate employment 5       practices or accommodations? 6       REP. MICHAUX: The same statute that 7       takes away that authority from them. In other 8       words, there is no -- there is no -- there is -- 9       REP. STAM: Ah. 10      REP. MICHAUX: -- there is none. And 11      what you're doing is, if they wanted to do it, like 12      some have done -- for instance, there are -- there 13      are cities and counties that have passed minimum -- 14      minimum wage laws. You want to come in to -- and 15      do that. 16      SPEAKER MOORE: For what -- I think the 17      gentleman has another -- for what purpose does the 18      gentleman from Mecklenburg, Representative Bishop, 19      rise? 20      REP. BISHOP: To ask the Representative 21      if he would yield for a question. 22      SPEAKER MOORE: Does the gentleman from 23      Durham yield to the gentleman from Mecklenburg? 24      REP. MICHAUX: Yes. 25      SPEAKER MOORE: He yields.	29  1       REP. MICHAUX: Mr. Speaker? 2       SPEAKER MOORE: Does the gentleman desire 3       further debate or does the gentleman wish to make a 4       motion? 5       REP. MICHAUX: I wish to make a motion, 6       pursuant -- 7       SPEAKER MOORE: The gentleman is 8       recognized for a motion. 9       REP. MICHAUX: -- pursuant to section 313 10      of Mason's Manual, I move that sections 1, 2 and 3 11      be voted on and discussed separately. 12      SPEAKER MOORE: The Chair's going to 13      review the bill and will advise once that's done. 14      House will be at ease. 15      (Members at ease.) 16      SPEAKER MOORE: The House will come back 17      to order. The -- the gentleman's recognized for an 18      amended motion I believe the gentleman wishes to 19      make. 20      REP. MICHAUX: Mr. Speaker, I move that 21      Part 1 be separated and voted on separately, and 22      that Parts 2 and 3 be voted on separately. 23      SPEAKER MOORE: Okay. The Chair rules 24      that this motion is in order. The gentleman's 25      recognized to debate his motion.

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1 REP. MICHAUX: Thank you, Mr. Speaker. 2 What it does, it gives you an opportunity to those 3 who didn't want to usurp the power of our cities 4 and counties to debate a little bit more on that. 5 Section 1 deals with the problem that was raised by 6 Charlotte, and that is why I ask for the separation 7 on it. Because there are some who want to vote for 8 it; some who want to vote against it. There are 9 also some on the other side who want -- who do not 10 want to usurp that power of their cities and 11 authorities. I ask that you support the motion.  12 SPEAKER MOORE: Members, there are 13 several lights on. I would ask that those members 14 who wish to debate this motion, please activate 15 your lights. If members are simply wanting to 16 debate the bill as a whole, please turn your lights 17 off. The Chair will afford an opportunity to come 18 back to that. For what purpose does the gentleman 19 from Harnett, Representative Lewis, arise?  20 REP. LEWIS: To debate the motion. 21 SPEAKER MOORE: The gentleman has the 22 floor to debate the motion. 23 REP. LEWIS: Thank you, Mr. Speaker. Mr. 24 Speaker and members, I would ask the members of the 25 Chamber to vote against this motion. This bill is	30  1 Assembly. Therefore, I believe they are related, 2 and I believe they should remain together. 3 REP. MICHAUX: Another question. 4 SPEAKER MOORE: Does the gentleman yield 5 to an additional question? 6 REP. LEWIS: I yield. 7 SPEAKER MOORE: He yields. 8 REP. MICHAUX: So what you're saying is 9 that all three of these items are -- in fact, the 10 matter of restrooms and the matter of the power of 11 cities and -- are all related in that particular 12 aspect? Is that what you're telling me? 13 REP. LEWIS: Again, Representative, 14 without veering into the content of the bill, as 15 best I can, while I would agree that the gross 16 violation of privacy that the bathroom issue brings 17 about is more alarming to me personally, they both 18 have to do with the exceeding of local authority. 19 SPEAKER MOORE: For what purpose does the 20 gentleman from Rutherford, Representative Hager, 21 arise? 22 REP. HAGER: Speak on the amendment. 23 SPEAKER MOORE: The gentleman has the 24 floor to speak to the motion. 25 REP. HAGER: Thank you, Mr. Speaker.
31  1 a carefully crafted piece of legislation to make 2 sure that we are able to accomplish the ends that 3 the bill sponsors have explained during this 4 debate. Without veering into the debate on the 5 bill, I would simply ask you to vote no on this 6 motion.  7 REP. MICHAUX: Mr. Speaker, Mr. Speaker? 8 SPEAKER MOORE: For what purpose does the 9 gentleman from Durham, Representative Michaux, 10 rise?  11 REP. MICHAUX: To ask the Rules Committee 12 Chairman a question.  13 SPEAKER MOORE: Does the gentleman from 14 Harnett yield to the gentleman from Durham?  15 REP. LEWIS: I yield, Mr. Speaker. 16 SPEAKER MOORE: He yields. 17 REP. MICHAUX: Mr. Rules Chairman, would 18 you agree with me that Part 1 of this bill can 19 stand alone and be passed and enforced without 20 anything else, particularly anything involving Part 21 2 and 3?  22 REP. LEWIS: Representative, what I would 23 agree is that this entire bill deals with 24 individual localities exceeding the authority that 25 they have had without coming through the General	33  1 Guys, these three pieces of this bill, as 2 Representative Lewis said, all have something in 3 common. They talk about taking power away from the 4 state that we have always had, and, 5 constitutionally, we always will have, and giving 6 into the cities and counties. That's what these 7 three pieces have in common; that's why they have 8 that common denominator.  9 These cities and counties, especially in 10 this case, have operated outside their boundaries 11 and they're into the boundaries of the State. 12 These three pieces are integrated, they're -- 13 they're tied together, so I ask you to vote no on 14 this motion.  15 SPEAKER MOORE: Further discussion, 16 further debate on the motion? For what purpose 17 does the lady from Orange, Representative Insko, 18 rise?  19 REP. INSKO: Thank you, Mr. Speaker. 20 Ladies and gentlemen of the House, I would like for 21 you to vote yes on this motion. Partly because -- 22 Section 3 especially, that Representative Jackson 23 talked about, is excessive and unnecessary and 24 would put North Carolina -- it would join North 25 Carolina as the only state without any state law

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<p style="text-align: right;">34</p> <p>1       protecting private sector employees. We don't want 2       to do that. We need to separate these out so that 3       we can vote on them separately. So, please, vote 4       yes.</p> <p>5           SPEAKER MOORE: Further discussion, 6       further debate? If not, the question for the House 7       is the adoption of a Motion 12 set forth by 8       Representative Michaux. Those in favor will vote 9       aye; those opposed will vote no. The Clerk will 10      open the vote.</p> <p>11          (Votes recorded.)</p> <p>12          SPEAKER MOORE: The Clerk will lock the 13       machine and record the vote. 35 having voted in 14       the affirmative and 72 in the negative, the motion 15       fails. We're now back on debate on the bill. 16       Members who wish to debate, please activate your 17       lights. What purpose does the lady from Guilford, 18       Representative Harrison, arise?</p> <p>19          REP. HARRISON: To debate the bill.</p> <p>20          SPEAKER MOORE: The lady has the floor to 21       debate the bill.</p> <p>22          REP. HARRISON: Thank you, Mr. Speaker. 23       This bill is so wrong on process and substance, but 24       I'm going to leave it to my colleagues to talk 25       about that. About the cost of this session, the</p>	<p style="text-align: right;">36</p> <p>1       boys' bathroom in high school. And you can just 2       imagine what kind of harassment and bullying and 3       potential harm might come to that young woman. And 4       this is a scenario that will play out all over the 5       state and affect all kinds of transgender 6       individuals, young and old.</p> <p>7           It's been repeated, but it bears 8       repeating again, that 200 communities across the 9       nation have enacted these protections for this 10      community, and there has been little incident. It 11      does not encourage sexual predators. There are 12      already laws against sexual predators. It's a ruse 13      to state otherwise. This is also described as the 14      most anti-LGBT legislation in the country.</p> <p>15          We should not be on the wrong side of 16       history on this. We should instead be focused on 17       real issues that affect women and children, like 18       restoring the EITC, raising the minimum wage, paid 19       sick leave, protecting clean air and clean water. 20       I urge you to vote no.</p> <p>21          SPEAKER MOORE: For what purpose does the 22       gentleman from Wake, Representative Martin, arise?</p> <p>23          REP. MARTIN: To send forth an amendment.</p> <p>24          SPEAKER MOORE: The gentleman is 25       recognized to send forth an amendment. The Clerk</p>
<p style="text-align: right;">35</p> <p>1       appropriateness of this session, the potential loss 2       of significant federal funding, the economic 3       impact. I'm going to focus on, sort of, the 4       humaneness and the compassion element of this.</p> <p>5           I wanted to talk about the transgender 6       community, and we heard some compelling testimony 7       in the hearing prior to this -- the committee 8       hearing on the bill. I don't think many of us in 9       this chamber really understand what transgenders go 10      through in term of the harassment and indignity and 11      discrimination on a daily basis. Everything from 12      employment to housing to jobs to restaurant access, 13      hotel access, and, yes, restroom access. So I -- 14      we also received an email from a doctor in Cary 15      that talked about the suicide rate among 16      transgenders being as high as 41 percent. I 17      thought that was pretty -- pretty compelling, and 18      you can safely say no one chooses to be 19      transgender.</p> <p>20          It got me thinking about my constituents. 21       I have constituents who are the parents of a 22       transgender daughter, and I -- she's grown now, but 23       what if this bill had been in place? She was going 24       to be forced to use the boys' locker room in high 25       school, a transgender girl, and forced to use the</p>	<p style="text-align: right;">37</p> <p>1       will read.</p> <p>2           CLERK: Representative Martin moves to 3       amend the bill on Page 4, Lines 26 by inserting 4       between age and biological the phrase, "veteran 5       status, sexual orientation, gender identity."</p> <p>6          SPEAKER MOORE: The gentleman from Wake, 7       Representative Martin, has the floor to debate 8       the -- to debate the amendment.</p> <p>9          REP. MARTIN: Thank you very much, Mr. 10       Speaker. Members, my amendment does not deal, for 11       the most part, with anything to do about some of 12       the more controversial parts of this legislation, I 13       hope. But I think we would all agree that we are 14       putting this legislation together as we go. It's 15       been a pretty quick process that we've all been 16       called back into session, and we have had limited 17       time to put it together.</p> <p>18          But understand one of the goals of this 19       legislation to be to implement a statewide 20       anti-discrimination policy, and to take that out of 21       the purview of the local governments. So whether 22       one agrees or disagrees with that policy, I think 23       all 120 of us would agree that we need to do it 24       right, and we need to sure -- make sure that we 25       don't make any mistakes in doing it. So my</p>

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1 amendment seeks to address one of those mistakes. 2 I think you'll find one portion of it 3 uncontroversial. The other portion, one that's 4 needed, but one that y'all may have some heartache 5 with, but we will see. 6 But if you look through the various 7 counties and local governments in North Carolina, 8 one of the categories you will see in the 9 anti-discrimination ordinances that they have 10 adopted is, in fact, veteran status. And that is 11 something that, as I have, in the short time that 12 we've had it before us, looked through this bill, 13 is not present. What you will also see in my 14 amendment is that it does, in fact, prohibit in our 15 statewide anti-discrimination policy -- 16 discrimination on the basis of sexual orientation 17 and gender identity. 18 I think we can have a broader debate on 19 that also. But without a doubt, it's something, I 20 think, needs to be in our policy. Members, I'm 21 happy to explain why discrimination on the basis of 22 veteran status should be prohibited and why we 23 should not blindly strip from our local governments 24 the ability to protect it, and I'm happy to yield 25 any questions on that or any other matter that's	1 anti-discrimination policies prohibiting 2 discrimination on the basis of veteran status, and 3 I am unaware of any problems similar to that which 4 the gentleman suggests. 5 SPEAKER MOORE: The gentleman has the 6 floor to continue debating if the gentleman desires 7 further debate. Further discussion or debate on 8 this -- for what purpose does the gentleman from 9 Wake, Representative Stam, rise? 10 REP. STAM: To speak on the amendment and 11 make a motion. 12 SPEAKER MOORE: The gentleman has the 13 floor to debate the amendment. 14 REP. STAM: Ladies and gentlemen, first 15 of all, let's be clear. Page 3, Line 44, makes 16 clear that cities and counties can have whatever 17 classifications they want that are otherwise lawful 18 for their own employees. Here we're talking about, 19 you know, not their own employees. 20 In my youth, I was in the military, and 21 so I -- I've been a veteran for 45 years. I have 22 yet to ask anybody at the -- have ever ask -- had 23 anyone ask me before I bought groceries, are you a 24 veteran? And it's had to imagine that anyone would 25 discriminate against you in employment because
39 related to this amendment, but I would urge your 4 support. 5 SPEAKER MOORE: For what purpose does the 6 gentleman, from Guilford, Representative Blust, 7 arise? 8 REP. BLUST: To see if Representative 9 Martin will yield for a question. 10 SPEAKER MOORE: Does the gentleman from 11 Wake yield to the gentleman from Guilford? 12 REP. MARTIN: I would gladly yield to 13 John Marshall Blust. 14 SPEAKER MOORE: He yields. 15 REP. BLUST: Thank you. The term 16 "veteran status," could that not be interpreted as 17 a two-sided coin, in which a veteran who served is 18 a veteran on one side of the coin, but someone who 19 didn't serve has a veteran status in that they're 20 not a veteran, and could putting this in the law be 21 interpreted to outlaw veteran preferences programs 22 for things like hiring? 23 REP. MARTIN: I think the clear answer to 24 that is that throughout the country, both at the 25 state level and in some cases at the federal level, and then certainly as I have described at the local government level, there are no shortage of	41 you're a veteran. So I don't even understand the 5 need for veteran status. It's not a mark against 6 the person. 7 But secondly, you can go endlessly on. 8 Now, the other two items that Representative Martin 9 have mentioned suffer from definitional problems, 10 but let's take New York City, for example. They 11 prohibit discrimination on the basis of arrest 12 history, convict status, incarceration history, 13 credit history, source of income, caregiver status, 14 occupation, ancestry, weight, height, place of 15 birth, homelessness, political affiliation, student 16 status, the list can go on and on. What is in the 17 bill are the suspect classes that have already been 18 recognized in law. 19 Representative Martin is right, that if 20 he wants to change that law, he's at the right 21 place, the General Assembly, but the wrong time, 22 and this should not be done by cities and counties. 23 So, Mr. Speaker, I move to table the amendment. 24 SPEAKER MOORE: The gentleman has been 25 recognized for motion. The gentleman has moved that the bill do lie upon the table. Is the motion seconded? And seconded by Representative Cleveland. The question for the House is the

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<p style="text-align: center;">42</p> <p>1 motion to lay the amendment upon the table. Those 2 in favor will vote aye, those opposed will vote no. 3 The Clerk will open the vote. 4 (Votes recorded.) 5 SPEAKER MOORE: Representative 6 Baskerville, Representative Brown on the floor, 7 Rayne Brown? The Court will lock the machine and 8 record the vote. 70 having voted in the 9 affirmative and 36 in the negative, the motion is 10 adopted. The bill does lie upon the table. 11 We're now back on the bill. For what 12 purpose does the gentleman from Mecklenburg, 13 Representative Moore, rise? 14 REP. R. MOORE: To speak very briefly on 15 the bill. 16 SPEAKER MOORE: The gentleman has the 17 floor to debate the bill. 18 REP. R. MOORE: Well, colleagues, we have 19 expensed a great deal of money to come back to 20 Raleigh. We were here a couple of weeks ago to 21 talk about -- talk about bathrooms. But let's 22 drill down into what the intent of this particular 23 legislation is. 24 This is really not about bathrooms. This 25 is about -- this is about fear, because, first of</p>	<p style="text-align: center;">44</p> <p>1 fact, if you look at some of our largest employers 2 in the state of North Carolina, they have policies 3 that address LGBT instances of their employees and 4 other things, so that can't be what we're doing 5 here. 6 And so what we -- what we dial back to 7 what I see resonantly clear, is the fact that 8 differences scare us. And so we want to put our 9 anvil, our hammer on the City of Charlotte to 10 affect the whole state, to say we -- we want 11 uniformity in these laws. Well, actually, it is 12 the -- it is the right of each municipality to -- 13 to do their own laws or their own ordinances; that 14 we gave them that authority. If you don't want to 15 do that, then I'm sure I will -- whoever that is, I 16 will not yield. Dan, I will not yield. Thank you. 17 SPEAKER MOORE: For what purpose does the 18 gentleman from Union, Representative Arp, arise? 19 Oh, I'm sorry. Does the gentleman desire further 20 debate, I thought -- to debate the bill? 21 REP. R. MOORE: No, I'm not finished. 22 SPEAKER MOORE: All right, apologize. 23 REP. R. MOORE: I -- I -- 24 SPEAKER MOORE: There was a long pause, 25 there, Representative Moore.</p>
<p style="text-align: center;">43</p> <p>1 all, you -- the City of Charlotte has a sovereign 2 responsibility and duty to make and pass ordinances 3 that have been given a charter by the State of 4 North Carolina. Does not mean that the State of 5 North Carolina at any time can supersede local 6 authority, but we've been through that for the last 7 four or five years here, so that's -- that's not -- 8 that's nothing new. It's not a problem. 9 But it is a problem. Because what you 10 have here is -- you have fear-stoking. The LGB -- 11 I've done the research. This ordinance is in over 12 200 cities, as it was referenced before, and there 13 has not, to my knowledge, been any catastrophic 14 incident of assaults, of rapes in these bathrooms 15 or anything, and so the argument that this is such 16 a grave challenge or a grave issue of public 17 safety, just doesn't -- just doesn't mesh; 18 doesn't -- doesn't pan out based upon the data. 19 And so now, let's walk back on that one. 20 We also know that the business community, 21 which we are here, our sole purpose is to create 22 jobs and to put forth a potentially good business 23 climate so that we can attract and retain jobs in 24 North Carolina. The business community has no 25 heartburn with this ordinance. As a matter of</p>	<p style="text-align: center;">45</p> <p>1 REP. R. MOORE: And I was -- I was 2 waiting for Dan to do his thing. Can I continue? 3 SPEAKER MOORE: The gentleman has the 4 floor to continue debating the bill. 5 REP. R. MOORE: Okay. And I'll wrap this 6 up very quickly. I am against -- I am against this 7 bill because it -- it -- it's not -- the spirit of 8 the bill is not what the bill says that it's 9 intended to do. We've been here before. 10 We know the ugly history of the state and 11 of this nation as it relates to LGBT, as it relates 12 to people of color, immigrants and other things. 13 And we have -- we have a very tricky, slippery 14 slope in this country, that we have had so much 15 rhetoric going on about people who are different 16 than us or supposedly different than us. But if 17 you're a Christian as some of you claim, we are all 18 children of -- of the Most High God, and brothers 19 and sisters in Christ. And so if you look at it 20 from that perspective, I ask that you look into 21 your hearts and that you defeat this measure. 22 Thank you. 23 SPEAKER MOORE: For what purpose does the 24 gentleman from Union, Representative Arp, arise? 25 REP. ARP: To debate the bill.</p>

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1 SPEAKER MOORE: The gentleman has the 2 floor to debate the bill. 3 REP. ARP: Thank you, Mr. Speaker. 4 Colleagues, ladies and gentlemen, let me be very, 5 very clear on what we're doing here today. I'm not 6 running for a Congressional seat. Opponents -- I 7 don't want opponents to distract from what we're 8 doing here. 9 Summer's coming. Spring is here, 10 summer's coming. Emily and Ashante, 7-year-old 11 girls, are so excited to go to the pool. Their 12 mother's taking them to the pool. They go into the 13 locker rooms. They're bouncing off the walls with 14 excitement. They have been good all winter long 15 and now their mother is taking them to the 16 community pool to go swimming. 'All right, girls. 17 Calm down. Go ahead and take off your clothes and 18 get on your bathing suits and we will go to the 19 pool.' 20 As they begin to do so, in walks a 21 biological male. Sits down on the wooden bench in 22 front of the lockers right beside them and begins 23 to disrobe. What just happened? Emily, Ashante 24 and her mother just lost their privacy. 25 Some municipalities have mandated through	46	1 simple. All North Carolina citizens expect privacy 2 in showers, bathrooms and locker rooms. I do not 3 think counties and municipalities and local 4 governments have the authority to strip all North 5 Carolina citizens of their right to privacy in 6 showers, bathrooms and locker rooms. I do not 7 think counties, municipalities and local 8 governments should have the right to strip any 9 North Carolina citizen of their right to privacy in 10 showers, locker rooms and bathrooms or mandate 11 other businesses to do so. It's just that simple. 12 How is it compassionate to strip North 13 Carolina citizens of their right to privacy? It's 14 been mentioned about the schools. This bill 15 actually provides the authority, broad authority, 16 of the schools to accommodate any student in any 17 manner without stripping other students of their 18 right to privacy in showers, in locker rooms and 19 bathrooms. 20 Make no mistake, we would not be here if 21 a municipality had not stripped North Carolina 22 citizens of their right to privacy in bathrooms, 23 locker rooms and showers. I can think of us having 24 no greater purpose than to spend whatever amount of 25 money it takes to make sure all North Carolina	48
1 their ordinance that this very situation will occur 2 over and over and over again. This bill is 3 necessary to stop that from happening. Just common 4 sense. Biological men should not be in women's 5 bathrooms, showers or locker rooms. All North 6 Carolina citizens expect bodily privacy in showers, 7 locker rooms and bathrooms. Make no mistake, this 8 bill ensures all North Carolina citizens the 9 privacy, protections they in fact have. 10 Do you know that courts have found that 11 even prisoners have the right to use restrooms, 12 changing areas, without regular exposure to viewers 13 of the opposite sex? There have been two court 14 cases that settled this. There's a -- it's a -- 15 courts have recognized a constitutional violation 16 where guards regularly watch inmates of the 17 opposite sex who were engaged in personal 18 activities such as undressing, using toilet 19 facilities or showering. 20 So, prisoners actually have more privacy 21 than Emily and Ashante and her mother. These 22 seven-year-old girls. Prisoners. 23 We do a lot of hard things up here, a lot 24 of complicated things here, but, ladies and gentlemen, this is not hard. This is really	47	1 citizens are not stripped of their privacy in 2 locker rooms, showers and bathrooms. Ladies and 3 gentlemen, I urge you to vote yes on this bill. 4 Thank you. 5 SPEAKER MOORE: For what purpose does the 6 gentleman from Cumberland, Representative Floyd, 7 rise? 8 REP. FLOYD: To send forth an amendment, 9 Mr. Speaker. 10 SPEAKER MOORE: The gentleman is 11 recognized to send forth an amendment. Is the 12 Clerk in possession of the amendment? 13 REP. FLOYD: Yes, he is. 14 SPEAKER MOORE: The Clerk will read. 15 CLERK: Representative Floyd moves to 16 amend the bill on Page 1, Line 4 by deleting 17 "employment and." 18 SPEAKER MOORE: The gentleman has the -- 19 Chair is reviewing the amendment, the gentleman has 20 the floor to -- the gentleman has the floor to 21 debate the amendment. 22 REP. FLOYD: Mr. Speaker, when we first 23 heard and learned about the Charlotte bill, we was 24 under the impression that this session would address the Charlotte bill. And -- but what we see	49

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1       is that this session has gone beyond the Charlotte 2       bill and added employment.  3       But what my amendment does is to remove 4       the section that relates to employment and allow 5       the bill to move forward. And as Representative 6       Shaw -- Representative Michaux mentioned, that it 7       can stand alone and be voted on. It -- that's 8       simply that it's gone beyond what we originally 9       thought that this session would be called for.  10      SPEAKER MOORE: The Chair notices several 11     lights. Again, if members would only have their 12     lights on if they wish to debate this amendment. 13     To what purpose does the gentleman from 14     Mecklenburg, Representative Bishop, arise?  15      REP. BISHOP: To debate the amendment. 16      SPEAKER MOORE: The gentleman has the 17     floor to debate the amendment.  18      REP. BISHOP: The amendment would take 19     out not only the provision clarifying that local 20     governments may not regulate wage policy, but also 21     those sections that provide that localities cannot 22     regulate the employment practices and selling 23     practices of contractors to those governments. And 24     it affords an opportunity to say, this really is 25     one of the most egregious aspects of the overreach	50  1       And then if you go -- if you get through 2       the questions in that committee, you've probably 3       got a serial referral to another committee, maybe 4       two. And after you get favorable reports from 5       those committees, if you can do that, then you come 6       to the floor of the House, where people are making 7       speeches if they're running for Congress.  8       REP. MEYER: Mr. Speaker? 9       SPEAKER MOORE: For what purpose does the 10      gentleman from Orange, Representative Meyer, arise? 11      REP. MEYER: Can I ask Representative 12      Bishop a question? 13      SPEAKER MOORE: Does the gentleman from 14      Mecklenburg yield to the gentleman from Orange? 15      REP. BISHOP: I'm on a roll, so I don't 16      think I'll yield. 17      SPEAKER MOORE: He doesn't yield at this 18      time. 19      REP. BISHOP: And then, if you get a 20      majority of this body of 120 people to vote yes, 21      then it really gets tough, because you have to go 22      across the chamber and start over again with a 23      whole 'nother set of committees, one of which is 24      rules. You have to get through both bodies and 25      that's how something becomes law.
1       of authority reflected in the Charlotte ordinance.  2       For it wasn't enough to mow down the 3       right of anyone to disagree with the social policy 4       revisions being done, but they also -- within the 5       City of Charlotte, but they also sought to reach 6       beyond their borders and instruct businesses 7       throughout the state of North Carolina, who might 8       seek to do business with the city of Charlotte, how 9       they must operate their businesses.  10      Which -- which points up again why it's 11      important. You know, we -- we sit in one house of 12      a bicameral legislature. Bicameralism exists now 13      the world over as a bulwark against invasions of 14      freedom. And I've learned, in the short time being 15      up here, that having five or six people think 16      something is a good idea is a long way from home 17      when it comes to making a law. You have to get a 18      old ornery committee chairman like Chairman Brawley 19      to allow you to be heard in his committee. You 20      have to answer a lot of questions. And you find 21      out that if you haven't vetted out your language 22      very carefully, as the case has been in Charlotte, 23      where, by the way, if you read the plain language, 24      they eliminated same-sex specific facilities 25      completely.	51  1       Or here's a neat trick. Let's just go to 2       a city council where you can find a handful of 3       radicals under the influence of an activist group. 4       It's got a lot of money from out of state. And get 5       six of those people to enact something that goes to 6       the heart of some -- of statewide interest. And 7       then impose that not only on your own citizens, but 8       on everyone that might be operating a business 9       across the state. That is the picture of the 10      subversion of the rule of law.  11      And the reason I asked the question -- 12      nobody yet has suggested that there's a statute in 13      the general statutes that confers authority on the 14      City Council of Charlotte to do what they've done. 15      Indeed, to my colleague, Representative Moore, who 16      spoke of this being about fear, I want to suggest 17      to all of us that we'd be better served in our 18      debating with one another if we did not ascribe the 19      basest of motives to the opposition that we face. 20      Fear and ignorance. I don't know how many times 21      I've heard in the last month or so that everyone 22      who might be opposed to what Charlotte has done 23      must be acting out of fear and ignorance.  24      REP. R. MOORE: Mr. Speaker. 25      SPEAKER MOORE: What purpose does the

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<p style="text-align: right;">54</p> <p>1       gentleman from Mecklenburg, Representative Moore, 2       arise?</p> <p>3           REP. R. MOORE: To ask my -- my 4       delegation member Representative Bishop a question.</p> <p>5           SPEAKER MOORE: Does the -- does -- 6       Representative Bishop, does the gentleman yield to 7       a question from Representative Moore?</p> <p>8           REP. BISHOP: Returning the favor, I'm 9       not yet done, not at this time.</p> <p>10          SPEAKER MOORE: He does not yield. The 11       gentleman, the -- Representative Bishop continues 12       to have the floor to debate the amendment.</p> <p>13          REP. BISHOP: Thank you, Mr. Speaker. I 14       would submit that taking the step of mandating a 15       particular approach on every business of whatever 16       ilk throughout the city of Charlotte and across the 17       state of North Carolina that might want to do 18       business with the city of Charlotte implies fear. 19       Can we not trust that people acting in good will 20       will find ways to accommodate each other without 21       having an ever-expanding list of groups and 22       sub-groups and sub-sub-groups laid out in law so 23       that we can divide each other up?</p> <p>24          It's got nothing to do with fear. I 25       trust my fellow man and woman to do the right thing</p>	<p style="text-align: right;">56</p> <p>1       Representative Bishop -- 2           REP. BISHOP: Yes, Congressman? 3           REP. R. MOORE: All right. Trust me -- 4       and -- and, Representative Bishop, for some reason 5       that's -- that's a slip of the -- a Freudian slip. 6       Sir, do you really believe -- or -- or do -- you 7       talked about outside groups coming in and -- and 8       pandering and those things. Is that not done on 9       either side of the -- of the political philosophy 10       spectrum, whether you're a far right or far left 11       advocate? Is -- is that -- is that not the -- the 12       norm of our political process, at this particular 13       point in time?</p> <p>14          REP. BISHOP: I think general assemblies 15       like ours are the worst of all possible forms of 16       government, except for the others. That is to say, 17       a lot of garbage comes out of here. A lot of 18       influence is -- is peddled around. A lot of things 19       I disagree with happen.</p> <p>20          But I think, to my core, that the system 21       of government that we all live under, the 22       institution that we have here with all you fine 23       people on the floor and those in the other chamber 24       and those in the United States Congress that's -- 25       that's similarly separated for checks and balances</p>
<p style="text-align: right;">55</p> <p>1       almost all of the time. They need not be rode herd 2       on, if you will. That's why we establish things 3       like bicameral legislatures and separation of 4       powers. I didn't even mention that. Once you get 5       through the committees, the Senate and the House, 6       you gotta go to the Governor and get a signature. 7       None of that occurs when you can get a few people 8       to come up and run something through that's a great 9       idea, as far as they know.</p> <p>10          So I urge you, ladies and gentlemen, this 11       bill is a carefully crafted, integrated measure, 12       reasonably, to deal with an abuse of authority. 13       And I urge you to defeat the amendment.</p> <p>14          SPEAKER MOORE: For what purpose does the 15       gentleman from Mecklenburg, Representative Moore, 16       arise?</p> <p>17          REP. R. MOORE: To -- to ask my colleague 18       a -- a question.</p> <p>19          SPEAKER MOORE: Does the gentleman from 20       Mecklenburg yield to the gentleman from 21       Mecklenburg?</p> <p>22          REP. BISHOP: At this time, I'm pleased 23       to yield.</p> <p>24          SPEAKER MOORE: He yields.</p> <p>25          REP. R. MOORE: Senator -- I'm sorry,</p>	<p style="text-align: right;">57</p> <p>1       upon the abuse of power, those devices are core and 2       fundamental to our maintenance of our freedoms, and 3       they're -- and they absolutely deserve to be 4       respected.</p> <p>5           And one political -- if one political 6       force decides they're going to take a shortcut and 7       they're going to try to restructure things, or 8       overstep their authority until they're stopped, 9       then they ought to be stopped, for the sake of the 10       institutions that we hold dear. And they're not 11       just institutions for their own sake, but because 12       they protect our freedom.</p> <p>13          SPEAKER MOORE: For what does the 14       gentleman from Cumberland, Representative Floyd, 15       arise?</p> <p>16          REP. FLOYD: To speak a second time, Mr. 17       Speaker.</p> <p>18          SPEAKER MOORE: The gentleman has the 19       floor to debate the amendment a second time.</p> <p>20          REP. FLOYD: Mr. Speaker, the reason why 21       I sent forth this amendment, because I strongly 22       believe that this statute -- that this portion of 23       the bill can be addressed in the short session, 24       'cause anything can happen in a short session, or 25       it could be addressed in the long session. So I</p>

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1       urge your support of the amendment. 2           SPEAKER MOORE: For what purpose does the 3       gentleman from Wake, Representative Martin, arise? 4       For what purpose does the gentleman from Orange, 5       Representative Meyer, arise? 6           REP. MEYER: Thank you, Mr. Speaker. To 7       ask the gentleman from Mecklenburg, the bill 8       sponsor, two questions. 9           SPEAKER MOORE: Does the gentleman from 10      Mecklenburg yield to the gentleman from Orange? 11           REP. BISHOP: I yield for one question, 12       and we'll see. 13           SPEAKER MOORE: He yields. 14           REP. MEYER: I think -- I think you'll be 15       able to answer both of these questions right here. 16           REP. BISHOP: I'll try my best. 17           REP. MEYER: All right. In your 18       comments, you said that a city -- an elected city 19       council of seven members -- I don't know how many 20       members are on the Mecklenburg Board, but you said 21       that a elected city council, because they have 22       fewer members and a different process than our 23       legislature, that them enacting a local ordinance 24       is a subversion of the rule of law? 25           REP. WARREN: Mr. Speaker?	58	1       local concern. And they are agents of the General 2       Assembly and seeing to it that good government -- 3       government is available everywhere. And in 4       appropriate areas, they maximize local control. 5           But the -- but it is fundamental to the 6       operating of that system properly that authority be 7       delegated, and that authority exercised by 8       localities be properly -- that be -- be within 9       their delegated authority. 10           So, for example, zoning is a power we 11       have expressly conferred upon municipalities and 12       counties. And folks know the needs and 13       requirements of zoning questions in Charlotte and 14       Mecklenburg County in ways and details we couldn't 15       possibly know of here. The conditions in Charlotte 16       and Mecklenburg are far different than they are in 17       my mother's home county, Bladen, and -- and so 18       different decisions need to be made. 19           What we're talking about here is 20       something for which there's never been a delegation 21       of authority to a locality, and furthermore, it is not 22       a matter of statewide interest. It is not 23       something that varies in terms of what is right and 24       just from community to community and how the law 25       can be orderly.	60
1       SPEAKER MOORE: Just a moment. For what 2       purpose does the gentleman from Rowan, 3       Representative Warren, arise? 4           REP. WARREN: Mr. Speaker, it seems to me 5       that -- we've -- the discourse has gotten off 6       the -- the -- is not germane to the amendment. 7           SPEAKER MOORE: Well, the -- I think the 8       gentleman is rising to a point of order. The Chair 9       will simply -- the Chair believes the gentleman 10       from Orange is -- is still within the confines of 11       the debate. And the Chair did give the gentleman 12       from Mecklenburg a little bit of wide latitude to 13       debate the amendment. So I think that questions of 14       a wide latitude probably would -- would be 15       permissible. The gentleman from Orange has the 16       floor to continue propounding the question. 17           REP. MEYER: Thank you, Mr. Speaker. 18       Representative Bishop, can you elaborate on your 19       point that a city council passing a local ordinance 20       is somehow a subversion of the rule of law? 21           REP. BISHOP: I certainly can. Thank you 22       for the question. City councils and county 23       commissions -- I was a county commissioner -- are 24       critical to the functioning of state government. 25       They represent -- they -- they handle matters of	59	1       We make those decisions as a statewide 2       community. That's the way the system is set up. 3           REP. FLOYD: Mr. Speaker? 4           SPEAKER MOORE: For what purpose has the 5       gentleman from Cumberland, Representative Floyd, 6       rise? 7           REP. FLOYD: Is this in reference to my 8       amendment? 9           SPEAKER MOORE: Representative Meyer 10       asked the question, so I -- 11           REP. FLOYD: I'm just - I'm referring 12       that this reference might end -- 13           SPEAKER MOORE: Representative Floyd, the 14       Chair did give some wide latitude to Representative 15       Bishop to debate the amendment, and the Chair also 16       gave Representative Meyer a wide latitude for a 17       question, but is probably time to rein it in just a 18       little bit. 19           REP. FLOYD: Yes, sir, that is what I am 20       calling. May I, Mr. Speaker? 21           SPEAKER MOORE: Well -- 22           REP. FLOYD: May I? 23           SPEAKER MOORE: For what purpose does the 24       gentleman from Cumberland rise? 25           REP. FLOYD: A call for the previous	61

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<p style="text-align: right;">62</p> <p>1 question.</p> <p>2 SPEAKER MOORE: The gentleman has moved</p> <p>3 the adoption of the previous question. Those in</p> <p>4 favor of the previous question will vote aye; those</p> <p>5 opposed will vote no. The Court will open the</p> <p>6 vote.</p> <p>7 (Votes recorded.)</p> <p>8 SPEAKER MOORE: Is Representative Lambeth</p> <p>9 on the floor? The Clerk will lock the machine and</p> <p>10 record the vote. 89 having voted in the</p> <p>11 affirmative and 18 in the negative, the previous</p> <p>12 question has been adopted. The question before the</p> <p>13 House now, is the amendment sent forth by</p> <p>14 Representative Floyd to House Bill 2. Those in</p> <p>15 favor of the amendment will vote aye. Those</p> <p>16 opposed will vote no. The Clerk will open the</p> <p>17 vote.</p> <p>18 (Votes recorded.)</p> <p>19 SPEAKER MOORE: The Clerk will lock the</p> <p>20 machine and record the vote. 35 having voted in</p> <p>21 the affirmative and 72 in the negative, the</p> <p>22 amendment fails. We are now back on debate on the</p> <p>23 bill. For what purpose does the gentleman from</p> <p>24 Durham, Representative Michaux, arise?</p> <p>25 REP. MICHAUX: To speak a second time on</p>	<p style="text-align: right;">64</p> <p>1 yourself how much or if any cost would be involved</p> <p>2 in this bill? The reason I am raising that is</p> <p>3 because you define the parameters of -- no, I'm</p> <p>4 sorry. You define the parameters of what is</p> <p>5 discrimination and what is discriminatory and what</p> <p>6 is not discriminatory.</p> <p>7 If the federal government comes up and</p> <p>8 says, 'Well, you don't have, for instance, in here</p> <p>9 anything concerning sexual orientation,' which is</p> <p>10 not mentioned in here. And what I have today -- I</p> <p>11 have a piece of paper involving -- just Title IX</p> <p>12 education funds, and if you have described what</p> <p>13 your parameters of discrimination are, and they</p> <p>14 don't comport to what the feds are, you know you</p> <p>15 stand to lose about \$4 billion in education</p> <p>16 funding? Here it is, right here.</p> <p>17 So, what we have tried to say to you is</p> <p>18 that you have gone far beyond what's in a restroom</p> <p>19 or who goes into a restroom or how it affects</p> <p>20 somebody personally. What you have done is you</p> <p>21 have not looked at this bill as to what effect it</p> <p>22 may have on you in terms of your appropriations.</p> <p>23 As I said before, you put in this bill that</p> <p>24 disputes would be settled by the Human Relations</p> <p>25 Commission, a commission that has been defunded and</p>
<p style="text-align: right;">63</p> <p>1 the bill.</p> <p>2 SPEAKER MOORE: The gentleman has the</p> <p>3 floor to debate the bill a second time.</p> <p>4 REP. MICHAUX: Mr. Speaker and ladies and</p> <p>5 gentlemen of the House, my rising to speak this</p> <p>6 time does not go to what Charlotte did. I still</p> <p>7 think it is in their wisdom to do whatever they</p> <p>8 want to do. For instance, I don't want you telling</p> <p>9 Durham that they can't make any rules or</p> <p>10 regulations regarding who comes into Durham to want</p> <p>11 to build a building in Durham. Durham ought to</p> <p>12 have that authority, an authority which you're</p> <p>13 taking away from them with this bill.</p> <p>14 And that is my whole purpose here - is</p> <p>15 to that usurpation of power that the citizen --</p> <p>16 even the authority that you have given them, you</p> <p>17 have given them in the past, you have taken it away</p> <p>18 from them. You gave cities and counties the</p> <p>19 authority to do zoning. Yet in a couple of</p> <p>20 sessions, you took away zoning authority,</p> <p>21 particularly in Durham. I'm -- I'm -- I'm a</p> <p>22 witness to that.</p> <p>23 But let me ask you this. You say this</p> <p>24 bill was well crafted -- that it had a lot of</p> <p>25 thought that went into it. Have you ever asked</p>	<p style="text-align: right;">65</p> <p>1 no money going to them, but they are the ones</p> <p>2 who -- who are going to do this.</p> <p>3 You haven't looked at this carefully.</p> <p>4 All you have done is come in and rushed because of</p> <p>5 one hot button issue. You've come in and taken</p> <p>6 that hot button issue and turned it into something</p> <p>7 else that you even have a problem digesting.</p> <p>8 I still say that there is an opportunity</p> <p>9 right now for you all to do what you want, what you</p> <p>10 came in here to do, and not affect the cities and</p> <p>11 counties in the authority that they may have and</p> <p>12 what they may not have.</p> <p>13 REP. STAM: Mr. Speaker?</p> <p>14 SPEAKER MOORE: What purpose does the</p> <p>15 gentleman from Wake, Representative Stam, rise?</p> <p>16 REP. STAM: Would Representative Michaux</p> <p>17 yield for a question?</p> <p>18 REP. MICHAUX: Yes, sir.</p> <p>19 SPEAKER MOORE: Does the Representative</p> <p>20 from Durham yield to the gentleman from Wake?</p> <p>21 REP. MICHAUX: I sure do.</p> <p>22 REP. STAM: Mr. Michaux, do you know</p> <p>23 that, in the last 44 years, not a single school has</p> <p>24 lost Title IX funding for enacting laws and</p> <p>25 policies that require students to use restrooms and</p>

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<p style="text-align: center;">66</p> <p>1 locker rooms of their biological sex? Not once in 2 44 years.</p> <p>3 REP. MICHAUX: I understand that.</p> <p>4 REP. STAM: Answer the question.</p> <p>5 REP. MICHAUX: I understand that they 6 have not yet lost anything. Yes.</p> <p>7 REP. STAM: Second question.</p> <p>8 SPEAKER MOORE: Does the gentleman yield 9 to an additional question?</p> <p>10 REP. MICHAUX: I do yield.</p> <p>11 SPEAKER MOORE: He yields.</p> <p>12 REP. STAM: Does the paper you have there 13 happen to mention that 34 Code of Federal 14 Regulations, Section 106.33, says that quote, "a 15 recipient may provide separate toilet, locker room 16 and shower facilities on the basis of sex." Have 17 they told you that in their little talking point?</p> <p>18 REP. MICHAUX: I do not need for them to 19 tell me that, because I know that, but I also know 20 that in some federal law there is a mention of 21 sexual orientation also, Representative Stam, which 22 is not in your bill here today.</p> <p>23 SPEAKER MOORE: For what purpose does the 24 gentleman from Mecklenburg, Representative 25 Alexander, rise?</p>	<p style="text-align: center;">68</p> <p>1 Mecklenburg County, specifically in Charlotte, this 2 whole issue of the anti-discrimination ordinance 3 came up, was discussed, was debated at one City 4 Council, and then became something that was 5 discussed in the next mayoral and City Council 6 campaigns. So people who were running for office 7 went all over the community, showed up at numerous 8 forums, answered questions, and told people what 9 their position was going to be. At least one 10 mayoral candidate -- the candidate who prevailed -- 11 likewise went around the community at those same 12 forums, made speeches, told folk what her intention 13 was going to be, should she be elected. And the 14 people of Charlotte went to the polls in -- fully 15 aware of these discussions, and voted in a City 16 Council committed to making some changes and a 17 mayor committed to making the changes.</p> <p>18 Now, in my looking at Political Science 19 101, that's the essence of democracy. We had a 20 democratic process. It produced a result that some 21 folk like, some folks don't like, but it was a 22 democratic result.</p> <p>23 I admonish you, ladies and gentlemen, to 24 be very careful to substitute consistently the will 25 of the people at the county and at the municipal</p>
<p style="text-align: center;">67</p> <p>1 REP. ALEXANDER: To debate the bill.</p> <p>2 SPEAKER MOORE: The gentleman has the 3 floor to debate the bill.</p> <p>4 REP. ALEXANDER: Thank you, Mr. Speaker. 5 In going over this and thinking about it and 6 talking to folk up here, I think it is important 7 that you know two things. Number 1, I am not 8 running for Congress, and, Number 2, that if this 9 bill passes, we will have finally after a couple of 10 hundred years figured out how to outlaw two-hole 11 outhouses.</p> <p>12 Now, dealing with the serious matters. 13 You know, I -- I am a firm believer, as are many of 14 you, that regardless of what our Constitution says, 15 that ultimately, the power derives from the consent 16 of the governed. It derives from the people. And, 17 like many of you, I have argued over and over that 18 when you start looking at issues, you should go and 19 find out what the people did.</p> <p>20 Now, we've listened to a discussion of 21 how a bill becomes a law in the General Assembly 22 with kind of an implication that the process lower 23 down isn't quite as legitimate or as thorough. I 24 want to challenge that.</p> <p>25 In the last couple of years down in</p>	<p style="text-align: center;">69</p> <p>1 level with the will of 170 folk from all over 2 everywhere, most of whom are not from Mecklenburg 3 or Wake or Durham or Perquimans, or wherever the 4 next flashpoint will be. We should be very, very 5 careful when we exercise our constitutional 6 authority to intervene in localities.</p> <p>7 Now, there was a time when my colleagues 8 that ride the elephant would always talk about 9 local control and the importance of local control. 10 I want to remind them that that principle which you 11 used to champion and hold up, that principle is 12 still an important principle and should not be 13 forgotten in this debate.</p> <p>14 I also want to remind you that there are 15 a lot of cities that already have adopted the kind 16 of legislation that you -- that we seek to outlaw 17 in this bill. I don't know how many of you may 18 have traveled down to the state of Florida and have 19 gone to Disney World or Universal Studios or 20 whatnot. You know that's -- all of those in a 21 little town called Orlando that has the same kind 22 of ordinance that Charlotte has adopted. And I 23 don't think any of you had any problems when you 24 went to the toilets down there. Or any of your 25 constituents have reported predators lurking around</p>

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<p style="text-align: right;">70</p> <p>1       Shamu's pool. You know, it just hasn't been a 2       issue. 3       I don't know how many of you may have 4       gone down to Myrtle Beach, where they have a 5       similar ordinance, or gone down to Charleston, 6       where they have a similar ordinance. The point 7       that I'm making is that this is not really new 8       ground that is being plowed. I mean, I have 9       received -- as have you, I am sure -- phone calls, 10      text messages, e-mails, you know, from citizens who 11      have been fearful of what might happen at their 12      schools, what might be happening out in the park, 13      what might be happening in various and sundry 14      places. It created these scenarios of fear. We 15      should not be playing into fear. 16      I don't know how many millions of people 17      go to Disney World or Universal Studios. It's a 18      lot. And yet, nothing like what we've been hearing 19      in this debate, from some quarters, has ever 20      happened. 21      We should, ladies and gentlemen, vote 22      against this measure. Because from all counts, 23      whether you're talking about contracting, whether 24      you're talking about the ability of people in a 25      given locality to want to create a higher standard</p>	<p style="text-align: right;">72</p> <p>1       aspects -- two problems with this bill. The first 2       problem results from the convoluted and rushed 3       process by which the bill has found its way to us, 4       in which many members -- perhaps most members -- 5       did not even see the language of it until this 6       morning. 7       And now, as I understand the leadership's 8       intent, it is to run it through this body and then 9       send it right over to the Senate, where it's going 10      to have a rushed committee process and go through 11      the Senate today. I'm open to be enlightened if 12      there's going to be a more deliberative process, 13      and would be happy to hear so, but my understanding 14      is still that it's going to happen this day. And 15      my experience here, in over a decade, has been, 16      regardless of which party is in charge, that rushed 17      legislation, a rushed process, leads to mistakes 18      and omissions. It can lead to laws that have bad 19      effects that we did not intend, and that we could 20      have avoided with more deliberation and more 21      consideration. 22      And I would submit to you, members, that 23      the omission of veteran status from our state's new 24      anti-discrimination policy is one of those 25      mistakes. I do think every member here, even my</p>
<p style="text-align: right;">71</p> <p>1       in how they deal ethically with their businesses, 2       whether you're talking about who's on first in 3       going to the outhouse. However you want to cut the 4       cake, these are decisions that should be left to 5       local governments -- to local people, and should 6       not be relegated to us spending \$42,000 a day to 7       debate this stuff up here in Raleigh. 8       I appreciate you listening to me. I hope 9       some of you will vote with me, and I'm going to 10      vote red when it comes up. And hopefully we can 11      change the number up. Everything -- I've noticed 12      it's been going like thirty-some-odd folk to 13      seventy-some-odd folk. I don't know how many 14      people came up here with their minds made up, but I 15      trust that some of this debate and discussion will 16      allow you to see the light at the end of the 17      tunnel, and vote against this totally unnecessary 18      measure. Thank you, Mr. Speaker. 19      SPEAKER MOORE: For what purpose does the 20      gentleman from Wake, Representative Martin, arise? 21      REP. MARTIN: To debate the bill. 22      SPEAKER MOORE: The gentleman has the 23      floor to debate the bill. 24      REP. MARTIN: Thank you very much, Mr. 25      Speaker. Members, I want to talk about two</p>	<p style="text-align: right;">73</p> <p>1       Marine friend from Wake County who spoke of -- who 2       moved to table my amendment, would, upon 3       consideration and education, understand why we do 4       need to be able to protect discrimination on the 5       basis of veteran status. 6       One of the things that we have found, 7       particularly in the employment context -- but also, 8       in some cases, in the public accommodations 9       context, is that veterans are at risk of some 10      discrimination. There is a perception -- one that 11      is inaccurate -- particularly of veterans from the 12      current conflicts in Iraq and Afghanistan, that 13      we've all come back somehow scarred mentally from 14      the experience, and are unstable. In many folks' 15      minds, that perception could lead to a desire to 16      quietly bar a veteran from their premises if they 17      have a Marine or Army tattoo, or so forth. 18      It's also clearly an issue in the 19      employment context. And that's why you see at the 20      federal level, most state levels -- many state 21      levels, rather -- and certainly in local levels, 22      you do see discrimination, both in public 23      accommodations and in employment, prohibited. And 24      that's something that some counties in North 25      Carolina have chosen to do.</p>

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1            Like it or not, this bill we have before 2 us pretty clearly will repeal any ordinance -- any 3 city, county ordinance or local government 4 ordinance -- including, like the one in Orange 5 County, and probably several other counties. 6 That's going to happen, and that's something, I 7 think, if we'd had a more deliberative process, we 8 could have come to a bipartisan agreement that we 9 could have put in there.  10          But let me talk about something that 11 really goes to the heart of this legislation, and 12 why it is a horrific policy. What this legislation 13 will do, in the end, will make it very clear that 14 it is not against the law in North Carolina, 15 anywhere in our state, to discriminate on the basis 16 of sexual orientation. And at a time in our 17 nation's history where our men and women, gay and 18 straight, are still fighting, and still dying to 19 protect our right to come here on short notice and 20 blow hot air in the name of democracy, it is 21 abhorrent to discriminate against them.  22          Ladies and gentlemen, this nation has 23 not -- this is not the first time we've done this. 24 In the past, we have sent a class of people off to 25 war to defend our rights, and yet discriminated	74	1            about municipal law, and I really didn't until I 2 got down here, we are what is called a Dillon Rule 3 state. That means the cities and counties only get 4 the authority we delegate to them. They can't just 5 take off and do home rule. Those of you who are 6 talking about, well, let these people back at home 7 do whatever they want to, they know what's best. 8 But that's not how it's done.  9            In addition, this particular ordinance 10 didn't purport to just take place in Charlotte or 11 Mecklenburg County. It purported to take place in 12 all the public schools that are run by the State. 13 It purported to take place in private business 14 facilities, if they want to do business with the 15 State. It purported to do with businesses who are 16 in other counties that might want to do business 17 with Charlotte. It far overstepped its bounds.  18          We can go back to this -- the same thing 19 we had to do with Durham County one time, when 20 Durham County was attempting to establish a minimum 21 wage. That was not within their realm. So this is 22 truly about one privacy. That is an overreaching 23 concern that we've had, people's right to privacy 24 in completing a private function. And the second 25 is, cities and counties, don't overreach. You've	76
1            against them when they've returned to our country. 2 I contend that that is one of the greatest 3 injustices ever perpetrated on a class of people in 4 our country. It was wrong then, and it is wrong 5 when we do it again today, and I will be voting no.  6            SPEAKER MOORE: For what purpose does the 7 lady from Surry, Representative Stevens, arise?  8            REP. STEVENS: To speak on the bill.  9            SPEAKER MOORE: The lady has the floor to 10 debate the bill.  11          REP. STEVENS: Members of the House, make 12 no doubt about it. This bill is not about 13 discrimination. This bill was passed because 14 Charlotte did an ordinance that would be effective 15 prior to us entering regular session. There's been 16 this talk about the cost of this session, \$42,000. 17 That is a drop in a bucket compared to the 18 litigation that we would have to go through, and 19 that the State has been through several times, with 20 many counties and municipalities, only to have the 21 Court of Appeals tell them, 'You can't overreach, 22 counties. You can't overreach, cities. You have 23 limited authority; stay within it.' That's what 24 we're here about.  25          For those of you who don't know a lot	75	1            got your authority.  2            Now, there was this discussion of the 3 person who went door-to-door, politicking so that 4 she could get this changed in her county. Well, 5 that's the problem. It's not just her county; it's 6 the state. If she wanted that authority, she needs 7 to be going door-to-door and getting all her 8 friends together to replace everybody in this body, 9 because that's where the authority lies. I'd ask 10 that you vote for this bill.  11          SPEAKER MOORE: For what purpose does the 12 gentleman from Orange, Representative Meyer, arise?  13          REP. MEYER: To speak on the bill.  14          SPEAKER MOORE: The gentleman has the 15 floor to debate the bill.  16          REP. MEYER: Thank you, Mr. Speaker. I'm 17 going to save Representative Bishop from my second 18 question, but go ahead and continue the debate that 19 we had there for a second. Representative Bishop 20 suggested that the deliberative process of this 21 body is superior to the deliberative process of 22 local elected bodies. He ran through what it takes 23 to get a bill passed in this body, and compared it 24 to what -- something that, quote, "a handful of 25 people can do through a locally elected body."	77

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<p>1        I would simply like to point out to the 2        people of North Carolina that in the record of the 3        Charlotte City Council debate on the ordinance 4        we're discussing, there are 214 pages of official 5        record, and 28 attachments. Whereas, 6        Representative Bishop's own bill that we're hearing 7        today was only introduced to us at 10 a.m. this 8        morning, and will be passed in just a handful of 9        hours.</p> <p>10      So apparently, the people of North 11     Carolina need to understand that if you would like 12     to have a bill put through this deliberative body, 13     you don't really need the whole process that he 14     outlined. What you need is a majority party who's 15     willing to call a special session and push a bill 16     through in one day only for the purpose of 17     discriminating against the residents of our own 18     fine states. I urge you to vote against the bill.</p> <p>19      SPEAKER MOORE: For what purpose does the 20     lady from New Hanover, Representative Hamilton, 21     arise?</p> <p>22      REP. HAMILTON: To debate the bill.</p> <p>23      SPEAKER MOORE: The lady has the floor to 24     debate the bill.</p> <p>25      REP. HAMILTON: Okay. Thank you, Mr.</p>	78	<p>1        from Fiscal Research is this: the Human Relations 2        Commission was placed on a continuation review. 3        They are currently on non-recurring funding, and 4        the General Assembly will have to decide whether to 5        appropriate recurring money to this Commission in 6        the short session, or else the Commission will be 7        eliminated. So unless this body acts during the 8        short session to fully fund, in a recurring way, 9        the Human Relations Commission, then there'll be no 10      place for people who feel they've been 11      discriminated against to come and make their case 12      in North Carolina.</p> <p>13      I assure you many North Carolinians are 14      going to be watching what we do in the short 15      session regarding the Human Relations Commission. 16      I will be one of them, I will be here, and I will 17      not be letting this issue go.</p> <p>18      The second thing -- and this has already 19      been brought up by Representative Michaux, but I 20      wanted to put a little finer point on it. In G.G. 21      versus Gloucester County School Board, on November 22      2nd of 2015, the courts ruled this: the United 23      States Department of Education's Office of Civil 24      Rights has determined that a school or school 25      district that violates Title IX when it fails to</p>	80
<p>1        Speaker. And where do I begin? I was one of those 2        people driving up here this morning, having not 3        seen the specifics of the bill, yet who was 4        clearly, you know, quite unsure as to how I was 5        going to vote. I am, after all, a mother and, as a 6        parent, all parents want what's best for their 7        children, and certainly we want to protect our 8        children against any evil that may lurk out there. 9        By the way, it can happen anywhere. But then I saw 10      the bill, and read through it, and I asked quite a 11      few questions in committee. And I want to thank 12      Chairman Blackwell for his lenience in letting us 13      ask a lot of questions this morning.</p> <p>14      I've discovered, through Fiscal Research, 15      that the investigations and conciliations portion 16      of the bill -- it's on Page 5, Line 22 -- this 17      "Human Relations Commission and the Department of 18      Administration shall have the authority to receive, 19      investigate, and conciliate complaints of 20      discrimination in public accommodations."</p> <p>21      Representative Richardson asked a very 22      good question during the committee hearing, and she 23      asked, has that division -- that Commission, 24      indeed, been funded by the department -- in the 25      current budget cycle. The answer to the question</p>	79	<p>1        provide access to restrooms and locker rooms 2        consistent with a transgender student's gender 3        identity. That's less than six months ago that the 4        courts have ruled that that is a violation --</p> <p>5        REP. BISHOP: Mr. Speaker?</p> <p>6        REP. HAMILTON: -- of Title IX.</p> <p>7        SPEAKER MOORE: For what purpose does the 8        gentleman from Mecklenburg, Representative Bishop, 9        arise?</p> <p>10      REP. BISHOP: To ask a question of the 11      Representative.</p> <p>12      SPEAKER MOORE: Does the lady from New 13      Hanover yield to the gentleman from Mecklenburg?</p> <p>14      REP. HAMILTON: I do not.</p> <p>15      SPEAKER MOORE: The lady has the floor to 16      continue her remarks.</p> <p>17      REP. HAMILTON: Thank you. So, how does 18      that relate to North Carolina? What that does is 19      put close to \$4 billion at risk in education 20      funding in our state. If we are threatened with a 21      Title IX violation, and I feel very confident that 22      we probably will be, just like Tennessee is 23      currently grappling with the same issue, then we 24      put at risk \$4 billion of Title IX funding toward 25      public education at all levels. I think you really</p>	81

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1        ought to consider this in your -- your review of 2        this bill. You ought to consider the most recent 3        ruling in this regard, and you should vote against 4        this.  5        SPEAKER MOORE: For what purpose does the 6        gentleman from Cumberland, Representative Lucas, 7        arise?  8        REP. LUCAS: To debate the bill.  9        SPEAKER MOORE: The gentleman has the 10      floor to debate the bill.  11      REP. LUCAS: Thank you, Mr. Speaker.  12      Ladies and gentlemen, I have sat very attentively 13      as the debate has gone on, and as I've tried to 14      decipher how I could best relate to this bill. I 15      have not had the opportunity to even know what the 16      bill might contain, other than what I heard in the 17      media relative to restroom privileges, Section 1. 18      I think I heard that distinctly prior to coming 19      here. Sections 2 and 3, I knew nothing about until 20      today.  21      Regarding all three of those sections, 22      suffice it to say that in Section 1, I pretty much 23      know that we ought to be human beings first, and 24      that we ought to do everything within our power to 25      limit opportunities for perversion or mistreatment.	82  1        subservient to us. They are elected bodies, as we 2        are, and I do not know what's best for Mecklenburg 3        County. I will try my best to represent Cumberland 4        County, because that's who elected me.  5        We have to judge decisions that we make 6        here based on some previous experience. I 7        understand that there are such ordinances in a 8        sister state, like South Carolina, which is right 9        next to us, and I'm not aware of any problems that 10      they've encountered simply because they have 11      implemented good old common sense. And that's what 12      it takes. Common sense. I don't want to be in the 13      position of telling county commissioners, I know 14      much more about how to run your county than you do; 15      or to tell city councils, I have a better, a 16      greater, understanding of what you ought to be 17      doing, what you ought to be implementing, than you 18      know at that local level. So I think we need to 19      think long and hard about this decision. Thank 20      you.  21      SPEAKER MOORE: For what purpose does the 22      lady from Wilson, Representative Martin, arise?  23      REP. MARTIN: To debate the bill.  24      SPEAKER MOORE: The lady has the floor to 25      debate the bill.
1        And we get sometimes really emotional about 2        children. Probably everybody that has children, or 3        have had children, and none of us want to expose 4        our children to this kind of circumstance. That's 5        just common sense. We don't want that.  6        And I don't know if any amount of 7        legislation is going to prevent those who have 8        ulterior motives from attempting to implement those 9        motives. We just simply have to deter them as best 10      we can. And we'll all be committed to doing just 11      that. We all love our children.  12      As to how we handle the other sections of 13      that bill, that is micromanaging. That greatly 14      disturbs me. We all have a -- most of us, I should 15      say, let me qualify that, most of us have reached 16      the consensus that government is best when it's 17      handled at the lowest level possible. Ordinances 18      enacted by our cities and our counties, we ought to 19      respect, because they are close to the people that 20      they govern. We have railed, here at the state 21      level, about big brother federal government handing 22      down mandates, and expecting us to comply. 23      Probably all of us have railed against that, but 24      now it seems like we want to do the very same thing 25      and pass the buck on down to those who are	83  1        REP. MARTIN: Thank you, Mr. Speaker. 2        I'd just like to share some appreciation to the 3        work committee, and the folks who put a lot of 4        effort into drafting this legislation. And as a 5        mother of two teenage daughters who've been in the 6        schools recently -- and that, as often happens 7        around our family, we talk about what's going on. 8        What are you up to? What's happening at work? And 9        we talked about this issue, and that -- just the 10      appall that they had at the idea of it being wide 11      open for anyone to come into the restrooms at 12      school.  13      And I understand there were certain 14      intentions that perhaps they were trying to do 15      locally, but the result was just wide open ability, 16      without any discrimination at all, for anyone to 17      walk into either restroom at any time. So I would 18      just like to say thank you for this legislation, 19      and the common sense approach to protecting 20      everyone's privacy, and I think this is important.  21      It's common sense. It protects the 22      privacy for every citizen in this state, and that's 23      important. And I do also support that we have a -- 24      a local control as much as possible, and that we 25      support those things that our local governments

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<p>1 have the authority to do. And the more clear that 2 we can be, that we have given this authority, and 3 not that authority, then the less time that they 4 have to waste, and that we waste. And so I think 5 it's important that we clearly lay out, what 6 authority has been given and not given, and that 7 those things that have statewide importance are 8 handled at the state level.</p> <p>9 But -- but most importantly, I just 10 wanted to rise as a mother and a parent of -- of 11 daughters, and thank you for protecting our 12 privacy, and urge you to support the bill.</p> <p>13 SPEAKER MOORE: For what purpose does the 14 lady from Orange, Representative Insko, arise?</p> <p>15 REP. INSKO: To debate the bill.</p> <p>16 SPEAKER MOORE: The lady has the floor to 17 debate the bill.</p> <p>18 REP. INSKO: Thank you, Mr. Speaker. 19 Ladies and gentlemen of the House, this is wrong. 20 This is bad wrong. We're sent up here to solve 21 problems, not to create them. This bill is 22 supposed to protect girls and women. This bill 23 doesn't protect transgender girls or transgender 24 women. Transgender girls, now, who will be forced 25 to go into the male bathroom, or the male's locker</p>	<p>1 cell disease. It's a local state issue. It's not 2 a federal issue, but it's appropriate, for we 3 have -- that we have that here, because we have a 4 large population of people with sickle cell 5 disease. I was the health program administrator 6 for the UNC Sickle Cell Program, which was part of 7 a Duke UNC Sickle Cell Center. We have a large 8 population here, and a lot of support for that 9 population.</p> <p>10 A lot of good research has gone into this 11 state, and we have a local population that needs 12 this protection, and we have a -- a state law that 13 protects that population. It's a local issue. It 14 is a state issue. Just like this is a local issue. 15 This is a bad bill. It's a wrong -- it's wrong to 16 do. Please vote no.</p> <p>17 SPEAKER MOORE: For what purpose does the 18 gentleman from Wake, Representative Dollar, arise?</p> <p>19 REP. DOLLAR: To debate the bill.</p> <p>20 SPEAKER MOORE: The gentleman has the 21 floor to debate the bill.</p> <p>22 REP. DOLLAR: Thank you, Mr. Speaker, 23 Members of the House. I have tried to listen very 24 carefully to the debate in Committee and to the -- the debate on this floor. And let me respond first</p>	<p>88</p>
<p>1 room. Are they going to be treated well? 2 The only thing I can think of that's good 3 about this, is that we're finally talking about it 4 in public. That means our consciousnesses are 5 being raised. There was a time when we didn't know 6 someone who was gay; now, we all know someone who 7 is gay, and have gay friends. There was a time 8 when we didn't know anyone who was transgender. 9 Someday, that will be -- we'll be all familiar with 10 that issue, and tolerant of it. But for now, we're 11 really struggling, and I think this is a -- the 12 debate, I hope, will make us think about who we 13 really are trying to protect.</p> <p>14 This is a -- this is a local issue. We 15 have a lot more gay and transgender bisexual people 16 in Orange County. It's a tolerant community, so 17 why shouldn't we be able to have a local ordinance 18 that we choose, that protects the population that 19 lives in Orange County? Just looking at this 20 Section 3 that we talked about before, about how 21 this removes state protections against 22 discrimination; because, after all, everyone can go 23 to the federal court.</p> <p>24 You may not know this, but in North 25 Carolina, our state laws protect people with sickle</p>	<p>87</p> <p>1 to a couple of issues that have been thrown out. 2 One, Representative Hamilton mentioned 3 the issue of a continuation review for the Human 4 Relations Council. Well, I know of no continuation 5 review, not in my time in this Chamber, that didn't 6 result in the program being continued. More 7 importantly, a continuation review means that we're 8 examining the program. This provision would 9 actually help enhance the Human Relations 10 Commission, and the money is already provided to 11 continue that function in the second year of the 12 biennium. The money has already been funded, so 13 it's there, and not in any jeopardy.</p> <p>14 There was a question that was raised with 15 respect to Title IX, and -- and I would again point 16 out from Title IX itself, which is obviously a very 17 long title, but "Nothing contained herein shall be 18 construed to prohibit any educational institution 19 receiving funds under this act from maintaining 20 separate living facilities for the different 21 sexes," and then particularly under Title IX's 22 regulation, under the Code of Federal Regulation, 23 it specifically states, "A recipient may provide 24 separate toilet, locker room and shower facilities 25 on the basis of sex."</p>	<p>89</p>

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1            So if there was a Title IX issue, the 2       Charlotte ordinance would certainly not be the 3       remedy for that. That would be an issue that we 4       would have to deal with at the state level. So 5       that is sort of another red herring in this.  6       There was an issue raised with respect to 7       veterans, and I would only comment that I'm sure 8       the gentleman is well aware of the myriad of 9       veteran protections that we have in this state. 10      Now, let me mention just a couple. We have 60, 60 11      local veterans' services offices in this state. 12      There is specific protection, employment 13      protection, for veterans as well as members of -- 14      of the National Guard. And I have worked with 15      those in real life, from my time in state 16      government, I know they are there, and I know what 17      those provisions are, and they are ample and in no 18      way diminished by anything in this legislation.  19      Now, Representative Stevens very well 20      stated the issue with respect to timeliness and 21      cost. The reason why we're acting now is that what 22      we do today will save not only the cost of any 23      litigation there would have to be brought to 24      address the Charlotte ordinance, but also deals 25      with their April 1st enactment date. They could	90	1            That is an interpretation that our 2       Supreme Court has stated again and again and again 3       in a variety of cases, and it is how our government 4       in North Carolina is structured. And I would note 5       that no one in here in this debate -- I have yet to 6       hear in the hours or so that we've debated this, no 7       one has cited a specific local authority that the 8       General Assembly has enacted that would allow for 9       this local ordinance to be put in place by the City 10      of Charlotte or any other municipality. They lack 11      specific statutory authority to do what they did.  12      Members of this House, let me just say 13      this. Our cities, our counties do a tremendous 14      function for us in this state. They do a 15      tremendous job, and we want them to continue to 16      focus on those issues -- police, fire, parks, 17      recreation, economic development, water, 18      wastewater, recycling, sidewalks -- all of those 19      issues which have been clearly delegated to the 20      local municipalities, to the counties, as well as 21      other functions, specific by this body, by the 22      General Assembly of this state. They need to work 23      to hone those functions, to provide those services 24      to the citizens, and we do not need any municipal 25      government acting outside of its appropriate	92
1       have delayed that. Charlotte could have delayed 2       that and allowed the General Assembly, in its 3       normal course, to come in and to consider the 4       matter. They chose not to do that. So what we are 5       doing is both timely and cost-effective.  6       But the real issue, for me, anyway, when 7       I looked at this, and it first came up, and the 8       first discussion about enacting -- looking at this, 9       gets back to what is the function of a local 10      municipality, a county or a city? And I would just 11      quote from a recent court -- court case, in the 12      last few years, from the North Carolina Supreme 13      Court -- the Lanvale decision, which was a decision 14      regarding beyond taking zoning, certain statutes, 15      and trying to construe them to mean more than what 16      they actually meant.  17      And the Court stated this: "In the 18      exercise of ordinary governmental functions, 19      counties and cities are simply agents of the state, 20      constituted for the convenience of local 21      administration in certain portions of the state's 22      territory. And in the exercise of such functions, 23      they are subject to almost unlimited legislative 24      control, except where this power is restricted by 25      constitutional provision."	91	1       authority, particularly when they are seeking to 2       make political statements. And I would ask you to 3       vote for the bill. Thank you.  4       SPEAKER MOORE: For what purpose does the 5       lady from Franklin, Representative Richardson, 6       rise?  7       REP. RICHARDSON: Thank you, Mr. Speaker; 8       to debate the bill.  9       SPEAKER MOORE: The lady is recognized to 10      debate the bill.  11      REP. RICHARDSON: If I'm correct, today 12      in our committee meeting, I think I understood the 13      bill presenter to make the statement that, in order 14      to use the appropriate bathrooms, that you needed 15      to change your birth certificate to identify with 16      whatever transgender identity that you were to 17      identify with.  18      And the thought that has come to my mind, 19      is, if that's the case, then those, quote, 20      "prevents" [sic] that we are saying would raid our 21      women's bathroom, and go in and hurt our children; 22      what's to stop them from changing their birth 23      certificate? Because nothing in here says that 24      anybody has to have any type of ID or anything to 25      change their birth certificate. So are we really	93

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<p style="text-align: right;">94</p> <p>1       protecting, or are we giving people who would do 2       harm another avenue to access our children? 3       Because if I could just change my birth certificate 4       and go in any bathroom I wanted to, then anybody 5       can do that. 6       So I was wondering if there is any 7       requirements for someone changing their birth 8       certificate, or will the schools monitor that birth 9       certificate? Or how will we know that I didn't 10      just change my birth certificate because I wanted 11      to go in the girls' bathroom? Thank you. 12      SPEAKER MOORE: For what purpose does the 13      gentleman from Guilford, Representative Blust, 14      arise? 15      REP. BLUST: To see if Representative 16      Bishop -- 17      SPEAKER MOORE: Representative -- 18      Representative Bishop is at the speaker's dais 19      right now. Does the gentleman wish to debate the 20      bill, or does the gentleman -- 21      REP. BLUST: No, I'll -- I'll direct my 22      question to Representative Stam. 23      SPEAKER MOORE: Does the gentleman from 24      Wake yield to the gentleman from Guilford? 25      REP. STAM: I do.</p>	<p style="text-align: right;">96</p> <p>1       extremely broad. It affected every business that 2       wants to do business with Charlotte by contracting 3       with Charlotte, so I -- I would say it was economic 4       imperialism. 5       SPEAKER MOORE: For what purpose does the 6       gentleman from Durham, Representative Hall, arise? 7       REP. HALL: To speak on the bill the 8       first time. 9       SPEAKER MOORE: The gentleman has the 10      floor to debate the bill. 11      REP. HALL: Thank you, Mr. Speaker, and I 12      appreciate the opportunity to speak on this bill 13      the first time. And I wanted to look at a couple 14      of things, and -- and make it real simple, because 15      we've made it a little bit more complicated in the 16      discussion of this bill. 17      We've created a special session, and 18      we've all acknowledged, although we thought we were 19      going to get a look at the bill last night, that we 20      had an official five-minute period to read the bill 21      in the committee meeting today. 22      Now, Representative Bishop made a big 23      deal about the fact of all the different hoops and 24      steps you would go through for a bill in this 25      General Assembly to pass. Some people might would</p>
<p style="text-align: right;">95</p> <p>1       SPEAKER MOORE: He yields. 2       REP. BLUST: Representative Stam, I had 3       two understandings about this, that I -- I don't -- 4       I want to be sure about, about this matter. 5       Representative Dollar just covered one, which was 6       the fact that what the -- the Charlotte ordinance 7       absolutely went beyond what was already permitted 8       by law, and we're just making it clear, what that 9       law that already exists is. 10      The other one is -- is, as I understood 11      it, is the Charlotte ordinance didn't just affect 12      Charlotte. And I want to be sure on this, that 13      that ordinance affected anyone who -- from the 14      state who visited Charlotte, or who did business in 15      Charlotte, and hence, it had statewide 16      implications, and that the legislature that 17      represents the entire state, therefore, is the 18      proper forum in which this kind of matter can be 19      corrected. 20      REP. STAM: That -- that is correct, 21      Representative Blust. The -- that ordinance 22      affected anyone who traveled through Charlotte. It 23      affected all the business owners, the non-profit 24      owners, because of their place -- their place of 25      public accommodation, the -- the definition was</p>	<p style="text-align: right;">97</p> <p>1       call that partially due diligence. That's not what 2       happened with this bill, though. 3       Let's go back and review what happened. 4       Folks got a look at this bill this morning, and we 5       are here today on this floor. It didn't go to a 6       second committee, didn't go to a third committee, 7       didn't have a notice to public hearing on it, 8       didn't have any of those protections. So let's not 9       get confused what normally happens around here with 10      what happened with this bill. 11      Now, for some reason we decided we had to 12      have a special session. And yes, we're going to 13      spend \$42,000, but that's not the real cost of this 14      bill. We know everybody in here. I don't know 15      what your billing rate is, or what revenue or 16      income you're sacrificing, or how much time it took 17      you to get here, or what responsibilities you had 18      in your community that you won't be able to 19      discharge because you're here, but add that on top 20      of the \$42,000. That's the cost to your 21      communities, your family, and our state for us to 22      be here for a non-emergency. So we're here, and 23      someone said this is an emergency, even though 24      we're coming back on the 26th to do business -- 25      that this is an emergency, that we have to do all</p>

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<p>1       of that upheaval right now.</p> <p>2           Well, if it's an emergency, what is the</p> <p>3       standard for it to be an emergency session? We've</p> <p>4       done this twice; once in 1981 when there was an</p> <p>5       error that we made in an adjournment resolution,</p> <p>6       and we had a member-demanded session to come back</p> <p>7       and correct the adjournment resolution for the</p> <p>8       legislature. And this is the second time.</p> <p>9           So what makes this, in the history of</p> <p>10       North Carolina, so important that we should come</p> <p>11       back and use that -- you know, some people call</p> <p>12       that trickery. But it is a legal methodology</p> <p>13       to call a session. So it's legal, and we can do</p> <p>14       it, and so we did it. But what made this rise to</p> <p>15       the level of being an emergency, that we have a</p> <p>16       special session?</p> <p>17           Now, 500,000 North Carolinians who could</p> <p>18       get health care if we increase our Medicaid, they</p> <p>19       might say, well, that's an emergency. Five hundred</p> <p>20       thousand North Carolinians who should get health</p> <p>21       care, they may say that's an emergency. How about</p> <p>22       our teachers that are moving out of the state,</p> <p>23       because they can't --</p> <p>24           REP. STEVENS: Mr. Speaker?</p> <p>25           REP. HALL: -- get paid a decent wage.</p>	<p>1       That is the discretion of the members who said,</p> <p>2       this is important. The people of North Carolina</p> <p>3       didn't say it was important enough to do that. The</p> <p>4       teachers who are leaving the state because their</p> <p>5       salaries are not sufficient for their families to</p> <p>6       live and work in -- in this state of North</p> <p>7       Carolina, they didn't say that. The people who</p> <p>8       want to improve education, they didn't say that.</p> <p>9           REP. LEWIS: Mr. Speaker?</p> <p>10           REP. HALL: Why, all of a sudden, is it</p> <p>11       important that this item --</p> <p>12           SPEAKER MOORE: Representative Hall, the</p> <p>13       gentleman will please suspend. For what purpose</p> <p>14       does the gentleman from Harnett, Representative</p> <p>15       Lewis, rise?</p> <p>16           REP. LEWIS: Point of order. I don't</p> <p>17       believe the gentleman is speaking on the merits</p> <p>18       contained within the House Bill 2, which is before</p> <p>19       the Chamber.</p> <p>20           SPEAKER MOORE: The Chair will -- will in</p> <p>21       this case rule that the gentleman's comments have</p> <p>22       drifted pretty far astray from being germane to the</p> <p>23       bill. If the gentleman will please contain his</p> <p>24       remarks germane to the bill.</p> <p>25           REP. HALL: Thank you, Mr. Speaker. And</p>
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<p>1       They may say --</p> <p>2           SPEAKER MOORE: The gentleman will</p> <p>3       suspend. For what purpose does the lady from</p> <p>4       Surry, Representative Stevens, arise?</p> <p>5           REP. STEVENS: Point of order. Are we</p> <p>6       sticking --</p> <p>7           SPEAKER MOORE: The lady may state her</p> <p>8       point of order.</p> <p>9           REP. STEVENS: Just, are we sticking with</p> <p>10       the bill? Is this germane to the bill that's</p> <p>11       before us?</p> <p>12           SPEAKER MOORE: The lady's comments are</p> <p>13       duly taken by the Chair. The -- the Chair would</p> <p>14       ask the gentleman to temper -- to keep his remarks</p> <p>15       relevant to the bill at hand. I understand the</p> <p>16       gentleman is trying to talk about other priorities,</p> <p>17       but inasmuch as possible, germane to the bill at</p> <p>18       hand. The gentleman does have the floor to</p> <p>19       continue debate.</p> <p>20           REP. HALL: Thank you, Mr. Speaker,</p> <p>21       and -- and I hope I'll be granted the latitude to</p> <p>22       speak about the process regarding the bill as well?</p> <p>23       I'll take that as a yes. So what --</p> <p>24           REP. HALL: -- makes this be an important</p> <p>25       enough issue for us to call a special session?</p>	<p>1       as we talk about the bill itself, and not the</p> <p>2       process by how it got here, apparently that's</p> <p>3       irrelevant that -- that we created this situation.</p> <p>4           Then let's talk about the bill itself.</p> <p>5       What is the bill doing? Is it expressing the will</p> <p>6       of the people? Is it addressing the issues of most</p> <p>7       importance to the people? Let's talk about the</p> <p>8       companies and the business interests in the</p> <p>9       community that employ the local people who said</p> <p>10       they support, by providing at their places of</p> <p>11       employment, protection. Carolinas HealthCare</p> <p>12       System, Wells Fargo, these are all private</p> <p>13       organizations, yes, and these are all organizations</p> <p>14       and businesses that work with the local community,</p> <p>15       and do the very thing that Representative Dollar</p> <p>16       said local communities are supposed to do: provide</p> <p>17       and participate in economic development. The very</p> <p>18       thing we do when we provide incentives to companies</p> <p>19       to come to North Carolina. Well --</p> <p>20           REP. BISHOP: Mr. Speaker?</p> <p>21           REP. HALL: -- Wells Fargo, Wal-Mart</p> <p>22       Stores --</p> <p>23           SPEAKER MOORE: Just a moment.</p> <p>24           REP. HALL: -- Bank of America --</p> <p>25           SPEAKER MOORE: To what purpose does the</p>

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<p style="text-align: right;">102</p> <p>1       gentleman from Mecklenburg, Representative Bishop, 2       rise?</p> <p>3           REP. BISHOP: To ask Representative Hall 4       a question.</p> <p>5           SPEAKER MOORE: Does the gentleman from 6       Durham yield to the gentleman from Mecklenburg?</p> <p>7           REP. HALL: Why, it would be my pleasure 8       to yield, as soon as I finish my comments.</p> <p>9           SPEAKER MOORE: He doesn't yield at this 10      time. The gentleman from Durham has the floor to 11      continue debate.</p> <p>12          REP. HALL: And -- and I would continue 13      the list: Bank of America, Novant Health Systems, 14      American Airlines, Food Lion, Harris Teeter 15      Supermarkets, Lowe's Companies, Duke Energy 16      Corporation, Apple, Siemens, AT&amp;T, Microsoft, Bank 17      of America; all organizations and businesses that 18      help partner with us in the development of our 19      state, contributing to the education of our 20      children, developing a future that we all aspire to 21      have North Carolinians have an opportunity to 22      participate in. But yet and still, their expressed 23      preference, by making their workplaces safe for all 24      North Carolinians, are being ignored. And so what 25      would we expect that future companies would say if</p>	<p style="text-align: right;">104</p> <p>1           SPEAKER MOORE: For what purpose does the 2       gentleman from Wake, Representative Dollar, rise?</p> <p>3           REP. DOLLAR: To see if the gentleman 4       would yield for a question.</p> <p>5           SPEAKER MOORE: Does the gentleman from 6       Durham yield to the gentleman from Wake?</p> <p>7           REP. HALL: Yes, Mr. Speaker, I'd be glad 8       to yield after my comments, after Representative 9       Bishop's --</p> <p>10          SPEAKER MOORE: He does not yield at this 11      time. The gentleman from Durham has the floor to 12      continue debating the bill.</p> <p>13          REP. HALL: Thank you, Mr. Speaker. And 14      I think it's extremely important that we note 15      what's going on here. You know, as Republican 16      primary voters left the polls, they said they had a 17      60 percent disapproval rating for their Republican 18      leadership. And so now, we've created this 19      emergency fiction, and we're going to have an 20      emergency solution, that we haven't done our work 21      on in passing it. Again, a one-day bill, one 22      committee, an hour's hearing, five minutes for you 23      to review it, and you're getting ready to vote it 24      up or down based on floor debate, without a fiscal 25      note.</p>
<p style="text-align: right;">103</p> <p>1       all of our citizens can't be respected, our valued 2       employees can't be treated fairly? Then they won't 3       come to North Carolina and take a risk on that.</p> <p>4           It gets even worse, though, because when 5       you think about it, South Carolina bests us again. 6       Can you believe it? South Carolina has enough 7       sense to be inclusive, and North Carolina, once 8       again, we're getting our lunch eaten by South 9       Carolina, over and over.</p> <p>10          The fiscal note that was talked about; if 11      you don't have a fiscal note, how are we going to 12      make a responsible decision about this bill? What 13      is it really costing us?</p> <p>14          I heard Representative Dollar say, "Well, 15      we're going to have funding available, although 16      it's under a continuation review." It's not in 17      this bill that guarantees there'll be funding 18      there. There's nothing in the bill that says that. 19      In the answer today to the committee, he indicated 20      there was funding there, it's taken care of. It's 21      not committed. It's not committed for this. It 22      may be there, it may not, and there's no 23      alternative way --</p> <p>24          REP. DOLLAR: Mr. Speaker?</p> <p>25          REP. HALL: -- to address those issues.</p>	<p style="text-align: right;">105</p> <p>1           I can't say that's responsible. I'm not 2       sure any of you could say that's a responsible way 3       for us to legislate. I know you feel that you have 4       to vote a certain way, and many of us will have to, 5       but we would have hoped we could have done better 6       than this. Not economic development, not funding 7       for our schools, not health care for our citizens, 8       we came back to do this. It's really a shame that 9       we could do this to the people of North Carolina. 10          I'd ask that you vote against the bill.</p> <p>11          SPEAKER MOORE: For what purpose does the 12      lady from Mecklenburg, Representative Cotham, rise?</p> <p>13          REP. COTHAM: Thank you, Mr. Speaker; to 14      send forward an amendment.</p> <p>15          SPEAKER MOORE: The lady's recognized to 16      send forth an amendment. The Clerk will read.</p> <p>17          CLERK: Representative Cotham moves to 18      amend the bill on Page 3, Lines 24 through 25, by 19      inserting the following lines to read.</p> <p>20          SPEAKER MOORE: The lady's recognized to 21      debate the amendment.</p> <p>22          REP. COTHAM: Thank you, Mr. Speaker and 23      members. I hope that this is a clarifying 24      amendment. I have shown it to the bill sponsors, 25      and they are on board.</p>

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1            You may recall I talked about if you are 2        a mother and have a very young child, could be an 3        infant, could be a three-year-old, and you need 4        that child to go into the restroom with you. Now, 5        this -- these children are not going to help you as 6        a parent, but for safety, you need them in there 7        with you, because what are you going to do with a 8        three-year-old or five-year-old? This simply 9        clarifies this, so that if you are a parent, and 10      you have a child up to the age of seven, that he or 11      she can accompany a parent or anyone who is caring 12      for that child -- could be a grandmother, could be 13      an aunt -- but I'm sure many of us who are parents, 14      we have been in this situation. So I ask for your 15      support.  16      SPEAKER MOORE: Further discussion or 17      debate on the amendment? The -- the gentleman from 18      Mecklenburg, Representative Bishop, is recognized 19      to debate the amendment.  20      REP. BISHOP: Thank you, Mr. Speaker. We 21      support the amendment.  22      SPEAKER MOORE: Further discussion, 23      further debate? If not, the question before the 24      House is the adoption of Amendment 3, set forth by 25      Representative Cotham. Those in favor of the	106	1        to the General Statutes. 2        And so I thought I would just mention, 3        the real defining line for me is the 10th Amendment 4        to the U.S. Constitution, and that reads, "The 5        powers not delegated to the United States by the 6        Constitution nor prohibited by it to the states are 7        reserved to the states respectively, or to the 8        people." 9        And of course that flow then took me to 10      the State Constitution, to Article 7, Local 11      Government, and it reads, "The General Assembly 12      shall provide for the organization and government 13      and the fixing of boundaries of counties, cities, 14      and towns, and other governmental subdivisions, 15      and, except as otherwise prohibited by this 16      Constitution, may give such powers and duties to 17      counties, cities and towns and other governmental 18      subdivisions as it may deem advisable." That 19      certainly sounds like we are in the framework of a 20      valid constitutional consideration, and I plan to 21      support the bill.  22      SPEAKER MOORE: For what purpose does the 23      gentleman from Lee, Representative Reives, rise? 24      REP. REIVES: To debate the bill. 25      SPEAKER MOORE: The gentleman has the	108
1        amendment will vote aye; those opposed to the 2        amendment will vote no. The Clerk will open the 3        vote. 4        (Votes recorded.) 5        SPEAKER MOORE: Representatives Speciale 6        and Malone, do the gentlemen intend to vote no on 7        this amendment that's been agreed to by all 8        parties? Okay. The Clerk will -- the Clerk will 9        lock the machine and record the vote. 107 having 10      voted in the affirmative, and none in the negative, 11      Amendment 3 is adopted. We're now back on the 12      bill. For what purpose does the gentleman from 13      Gaston, Representative Hastings, arise?  14      REP. HASTINGS: To debate, Mr. Speaker. 15      SPEAKER MOORE: The gentleman has the 16      floor to debate the bill.  17      REP. HASTINGS: And I had not planned to 18      speak, and I'll be very brief, Mr. Speaker. But I 19      have to admit, I've had to go through a 20      constitutional gut check today. I've had people 21      talk about local control and other issues, so I had 22      to go back to the delineation of power in my own 23      mind and let the people back home know what I'm 24      doing. And, of course, that flow of power is from 25      God to the people, and then to the Constitution and	107	1        floor to debate the bill. 2        REP. REIVES: I, like, Representative 3        Hastings, wasn't intending to have any conversation 4        on this, but it -- we are still continuing a 5        pattern that I -- I wish we would take a second 6        look at. I understand Page 1 of this bill 7        perfectly. I don't know where the last four pages 8        of the bill came in, or came from, but I would say 9        that -- I would remind most of us in here, that 10      for -- everything we continue to say about local 11      counties -- local commissions, local city councils, 12      boards of education, a lot of us came up through 13      those ranks. A lot of us were good public servants 14      at the local level. 15      I think to continue to insinuate or 16      directly disparage people who have taken the time 17      to serve as our County Commissioners, our city 18      councilmen, our board of education members at other 19      times, is not the route that we want to continue to 20      go. I agree with Representative Lucas's earlier 21      statement, the lower the level of government that 22      can handle matters, the better off we are. 23      If we're going to continue down a path 24      where we're going to take over a lot of the local 25      functions, I just don't think that's the way to go.	109

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<p style="text-align: center;">110</p> <p>1 because at some point in time, we've got things 2 that are statewide issues that we've got to pay 3 attention to, and it took us 10 months last year to 4 handle just those matters. And so I would ask that 5 we take that into consideration as we're thinking 6 about our votes on this bill, and as we proceed 7 through the short session.</p> <p>8 But I have to say I wholeheartedly 9 disagree with taking away local power, and I 10 wholeheartedly disagree with taking away a cause of 11 action for discrimination at a state level.</p> <p>12 For those of us who are -- practice law 13 and for those who have ever been unfortunate enough 14 to be involved in a discrimination suit, getting a 15 federal discrimination suit started is not a simple 16 matter. If it were a simple matter, nobody would 17 care if you could have a state cause of action, and 18 so doing these type of things, I just don't think 19 are appropriate. I don't think that they have 20 anything to do with Page 1 of the bill, and I would 21 just ask you to keep those things in consideration.</p> <p>22 REP. ARP: Mr. Speaker?</p> <p>23 SPEAKER MOORE: For what purpose does 24 the --</p> <p>25 REP. ARP: Mr. Speaker?</p>	<p style="text-align: center;">112</p> <p>1 Charlotte, or any other municipality, or any other 2 county, that does something that's in direct 3 contravention with state law.</p> <p>4 And I think we can address and we can 5 attack those issues and be done with those issues. 6 And I think that to just say, well, you've made a 7 mistake here, so we just think you shouldn't have 8 the authority anymore, might be a little 9 overreaching on our part.</p> <p>10 REP. ARP: Follow-up?</p> <p>11 SPEAKER MOORE: Does the gentleman yield 12 to an additional question? Representative Rieves, 13 does the gentleman yield to an additional question?</p> <p>14 REP. REIVES: I was trying to think if I 15 would. Yes, sir, I will.</p> <p>16 SPEAKER MOORE: He yields.</p> <p>17 REP. ARP: Okay. Do you think when a 18 local municipality does not take the low bid on a 19 project because a contractor does not have that 20 policy in place regarding same-sex bathrooms, do 21 you think that's in violation of our -- of our 22 laws?</p> <p>23 REP. REIVES: Well, again, candidly, I 24 think it's good that you bring that point up. But 25 in a 24-hour period, which is all that we've had</p>
<p style="text-align: center;">111</p> <p>1 SPEAKER MOORE: For what purpose does the 2 gentleman from Union, Representative Arp, arise?</p> <p>3 REP. ARP: I wonder if my good friend, 4 Representative Reives, would yield to a question?</p> <p>5 SPEAKER MOORE: Does the gentleman from 6 Lee yield to the gentleman from Union?</p> <p>7 REP. REIVES: Happily.</p> <p>8 SPEAKER MOORE: He yields.</p> <p>9 REP. ARP: Thank you, Representative 10 Reives. I admire you greatly. I've heard a lot of 11 this theme that comes in here. I don't know if 12 you're aware -- the actual amendment that Charlotte 13 had passed, which would be applicable, actually 14 amends the statewide bid laws to where they would 15 be not required to take the lowest bidder in a 16 project, because they have not yielded to privacy 17 rights of bathrooms and -- and of that nature. Do 18 you support them not -- paying more for a contract 19 and -- in contravention to the state bidding laws, 20 in order to have generalist bathrooms?</p> <p>21 REP. REIVES: No, and actually, I -- with 22 the great respect I have for you, Representative 23 Arp, and people on your side that have been able to 24 put together some bills, I think that we can 25 articulate and directly address problems with</p>	<p style="text-align: center;">113</p> <p>1 time to really review what we're doing to change 2 that law, I don't have enough information to tell 3 you. It sounds, from what you're saying, that 4 you're completely correct, but I do not know. And 5 I just don't know the answer, and I wish I did know 6 the answer. And I -- that's why I wish we were 7 doing this in the short session, when we had time 8 to sit around and talk about it. Thank you.</p> <p>9 SPEAKER MOORE: For what purpose does the 10 lady from Carteret, Representative McElraft, rise?</p> <p>11 REP. MCELRAFT: To speak on the bill.</p> <p>12 SPEAKER MOORE: The lady has the floor to 13 debate the bill.</p> <p>14 REP. MCELRAFT: Thank -- thank you, Mr. 15 Speaker and members. I wasn't going to say 16 anything, but I just wanted to let people know that 17 as a former three-term town commissioner, and a 18 county commissioner, there are lots of us that are 19 for this bill. And we don't feel like when we're 20 at our local duties, that this would give us any 21 reason to be mad at the State.</p> <p>22 When I was a town Commissioner, we knew 23 there were certain things that we could do and 24 could not do, especially if we had a great town -- 25 town manager or county manager that reminded us of</p>

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<p style="text-align: right;">114</p> <p>1       that, or county or -- or a city attorney. We knew 2       that we couldn't do environmental legislation; 3       that's a restriction on towns. We can't, even 4       though we'd like to, reduce some of the 5       restrictions the state has on septic tanks down at 6       the coast, we can't do that. That's 7       State-mandated. We were never given the authority 8       to do that.</p> <p>9       But I will let you know, that as a mother 10      and a grandmother of a fourteen-year-old 11      grandchild, this is about common sense. This is 12      about protecting, not from a transgender, 13      necessarily, but from a predator, who had the 14      authority then, as a man, to go in a young woman's 15      dressing room in high school, or a -- a women's 16      bathroom.</p> <p>17      I had a friend who just traveled through 18      Charlotte. They said they were afraid for their 19      child to go into the restroom -- a teenager -- 20      because they didn't know if the law in Charlotte 21      had already changed. So this doesn't affect just 22      the people from Charlotte. It affects all of us 23      from all over this state that goes through -- that 24      go through Charlotte. It affects businesses. 25      This is common sense legislation, and</p>	<p style="text-align: right;">116</p> <p>1       debate the bill.</p> <p>2       REP. CUNNINGHAM: Thank you, Mr. Speaker. 3       So how did we get here? Today we are here, once 4       more discussing something that Mecklenburg County 5       city officials decided to do. So how did we get 6       here? Same way we did the last time, picking up 7       something that really is not looking at the needs 8       of the people in our district.</p> <p>9       Policy will not change perception. Minds 10      will not change. Over 50 years ago, Martin Luther 11      King, Jr., professed that you cannot legislate 12      people to have a change of heart. That's why we 13      had the Civil Rights Movement. Did it change 14      people's hearts? Still today, people's hearts are 15      not changed. Still today, in this Chamber, 16      people's hearts have not changed.</p> <p>17      Every day in public, all over the State 18      of North Carolina, we still see acts of racism, 19      acts of violence against people that are just 20      slightly different from us, all over. The 21      multiplicity of issues that the people in my 22      district live with and face every day, this does 23      not relegate. This does not relegate to the 24      feeding of the hungry children in my district, for 25      us to come down here and do this piece of</p>
<p style="text-align: right;">115</p> <p>1       there are those of us who are offended that there 2       are town commissioners and county commissioners 3       that are offended by this. We, as town 4       commissioners and county commissioners, think this 5       is a good thing to do, direction from the General 6       Assembly, where we don't overstep our boundaries. 7       There are things we can do and things we can't do. 8       We just had a situation from town 9       commissioners down at Emerald Isle. They had the 10      Sierra Club sit there, every meeting for five or 11      six meetings, putting pressure on them to adopt a 12      resolution. Those town commissioners all came up 13      to me and said that they felt like they were forced 14      into doing it, or they couldn't get any other work 15      done. There are pressures that are put on these 16      town commissioners, pressures to vote a certain 17      way, which they regret. 18       So I think that we need to do what we 19      need to do up here, and they need to understand the 20      responsibility at the town and county level. 21       SPEAKER MOORE: For what purpose does the 22      lady from Mecklenburg, Representative Cunningham, 23      arise? 24       REP. CUNNINGHAM: To speak to the bill. 25       SPEAKER MOORE: The lady has the floor to</p>	<p style="text-align: right;">117</p> <p>1       legislation. 2       Mecklenburg County -- currently 50th in 3       the country on upward mobility, unemployment 4       continues to be high in the African American 5       community, so we don't need to lose any jobs. 6       I understand what transgender is about, 7       because I have a brother that is fully transgender, 8       but he does not live in the State of North 9       Carolina. He lives in New York. They have unisex 10      bathrooms, so only one person can go in at a time. 11      But here in North Carolina, that's where we are, 12      North Carolina, the great North Carolina. 13       Usually I like to look at people, even 14      our own people back home. Mecklenburg County, the 15      City Council made a decision. Yeah, they made it. 16       But did they negotiate? We hear a lot about 17      negotiate, mediate. Are we in the position that we 18      should be thinking about mediating and negotiating 19      on things, so that some things don't have to go 20      other places? Some things can be handled there, 21      and it not have to come down here for us to have to 22      clean it up, or fix it up, or even mess it up 23      further. Are we there yet? No, we're not there 24      yet, but that's okay. Here we are. Here we are 25      again.</p>

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<p>1            When I make a major decision, I first ask 2 myself -- am I doing any harm? I don't know how 3 many people do that, but maybe we should start 4 saying, am I doing any harm? Because if we look 5 at, right now, what's going on on the national 6 level, Trump is loose. I heard somebody talk about 7 Cooper in the meeting -- committee meeting, when 8 Trump is loose, and we can't get him back in the 9 box, so is he in the room?</p> <p>10          So are we exercising good judgment or are 11 we inciting more violence and discrimination and 12 prejudice? I cannot support the bill, but I ask 13 you -- are we doing more harm? Thank you.</p> <p>14          SPEAKER MOORE: The gentleman from 15 Mecklenburg, Representative Bishop, is recognized 16 to send forth an amendment. The Clerk will read.</p> <p>17          CLERK: Representative Bishop moves to 18 amend the bill on Page 3, Lines 46 through 47, by 19 deleting those lines and substituting the 20 following.</p> <p>21          SPEAKER MOORE: The gentleman has the 22 floor to debate the amendment.</p> <p>23          REP. BISHOP: Thank you, Mr. Speaker. At 24 that location, this is the portion of the bill 25 per -- clarifying that cities and localities don't</p>	<p>1            to Representative Hager. 2          SPEAKER MOORE: Does the -- would the 3 lady redirect her question to the gentleman -- 4          REP. HARRISON: Sure. 5          SPEAKER MOORE: -- from Rutherford? 6          REP. HARRISON: Please. 7          SPEAKER MOORE: And does the gentleman 8 yield? 9          REP. HAGER: I do. 10         SPEAKER MOORE: He does. 11         REP. HARRISON: I -- I just want to make 12 sure I heard it right, because the City of 13 Greensboro has -- has a living wage standard for 14 its employees. Are you saying that by clarifying 15 in this language, that the cities will be able to 16 adopt policies to pay their employees living wages? 17         REP. HAGER: Representative Harrison, 18 that has not changed. What this deals specifically 19 with is, Part 2H of Article 10 dealt with the One 20 NC Fund and how those contracts are laid with a -- 21 with the local piece of it, and those have certain 22 wage goals. We actually had missed JDIG, so we 23 actually added JDIG back in there, and this 24 captures JDIG now. 25         SPEAKER MOORE: Further discussion or</p>
<p>1          have authority to regulate wage levels. And there 2 are exceptions in the bill to make sure that, for 3 example, the local government can regulate its own 4 compensation levels to employees, and then there 5 are several items relating to federal community 6 development block grants and economic development 7 incentives, where those are integral to the -- to 8 the program. 9          In Item Number 2, we -- by including Part 10 2H of Article 10 of Chapter 143B, as opposed to 11 just Chapter 143B, we had -- were insufficiently 12 complete. So we are changing that line to make 13 sure that there's no interference with the economic 14 development incentives programs. And I support the 15 amendment.</p> <p>16          SPEAKER MOORE: Further discussion or 17 debate on the amendment? Any of -- I see three 18 lights; any of these members wish to debate the 19 amendment? For what person does the lady from 20 Guilford, Representative Harrison, arise?</p> <p>21          REP. HARRISON: To ask the amendment 22 sponsor a question.</p> <p>23          SPEAKER MOORE: Does the gentleman from 24 Mecklenburg yield to the lady from Guilford?</p> <p>25          REP. BISHOP: I would defer the question</p>	<p>1          debate on the amendment? If not, the question 2 before the House is the adoption of Amendment 4 3 sent forth by Representative Bishop. Those in 4 favor will vote aye; those opposed will vote no. 5 The Clerk will open the vote. 6          (Votes recorded.) 7          SPEAKER MOORE: The Clerk will lock the 8 machine and record the vote. 108 having voted in 9 the affirmative, and none in the negative, the 10 amendment is adopted. We're now back on debate on 11 the bill. For what purpose does the gentleman from 12 Mecklenburg, Representative Moore, rise? 13          REP. R. MOORE: To ask a question of my 14 delegation mate, Representative Bishop. 15          SPEAKER MOORE: Does the gentleman from 16 Mecklenburg yield to the other gentleman from 17 Mecklenburg? 18          REP. BISHOP: I yield. 19          SPEAKER MOORE: He yields. 20          REP. R. MOORE: Representative Bishop, 21 you mention in your comments that private 22 businesses were not -- there was no mandate for 23 private business, but let me ask you this. What -- 24 how do you -- I need some clarity for private 25 businesses who -- who require public</p>

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<p style="text-align: center;">122</p> <p>1 accommodations, like bars, restaurants, movie 2 theaters, and those things. How does this 3 particular law apply to that? I just -- just 4 wanted to get some clarity on -- on that particular 5 piece of it.</p> <p>6 REP. BISHOP: If I understand the 7 representative's question, the answer is that 8 they're free to adopt whatever policies they think 9 best.</p> <p>10 REP. R. MOORE: Follow-up?</p> <p>11 SPEAKER MOORE: Does the gentleman yield 12 to an additional question?</p> <p>13 REP. BISHOP: I yield.</p> <p>14 SPEAKER MOORE: He yields.</p> <p>15 REP. R. MOORE: And so, without framing it 16 in -- in a -- in a very ugly way, so you're saying 17 that if a private business is -- a private business 18 refuses, by their particular policy, to not serve a 19 person based upon their sexual orientation or -- 20 or -- something of that nature, or sexual identity, 21 then that would be allowed by that private 22 business, and we wouldn't have any -- would have 23 any jurisdiction over that particular choice, is 24 what I want to say?</p> <p>25 REP. BISHOP: Well, the -- the statewide</p>	<p>1 where I'm trying to find the consistency in 2 reasoning and application in this bill. 3 So we say that a local municipality can 4 adopt their own policies in terms of discrimination 5 in hiring. So if the City of Raleigh wants to 6 adopt a policy for the City of Raleigh saying, 7 'We're not going to discriminate against gay folks 8 in hiring them to work for the City of Raleigh,' 9 that's okay. But at the same time, today, we're 10 saying that businesses that contract with the City 11 of Raleigh, that are getting paid from the City of 12 Raleigh, can discriminate against gay people in 13 their hiring practices and policies. That, to me, 14 is not consistent. That, to me, begs reason. 15 It seems as though, to me, that gay folks 16 pay taxes, too. And it would be unconscionable for 17 you to tell someone, "I understand that you pay 18 taxes, some of your tax money is going to pay these 19 contractors that we have hired to our city to 20 perform city duties, and the money that you've paid 21 in taxes to hire this company to do a service for 22 us, that company is -- you would never be allowed 23 to work for that company, because that company 24 discriminates against gay people in their hiring 25 and we, by statute, have allowed that." That's</p>
<p style="text-align: center;">123</p> <p>1 public -- statement of public policy concerning 2 public accommodations discrimination is -- sets 3 forth the -- all of the protected classes under 4 Supreme Court jurisprudence and quasi-suspect -- 5 suspect classes. So the ones that are listed in 6 there, those are the ones that there is a public 7 policy statement concerning discrimination. And 8 otherwise, there's not a mandate on people -- 9 people's bathroom use, one way or the other. 10 They're free to do what they wish.</p> <p>11 SPEAKER MOORE: For what purpose does the 12 gentleman from Vance, Representative Baskerville, 13 rise?</p> <p>14 REP. BASKERVILLE: To debate the bill.</p> <p>15 SPEAKER MOORE: The gentleman has the 16 floor to debate the bill.</p> <p>17 REP. BASKERVILLE: Thank you, Mr. 18 Speaker, and I will be brief. There would have 19 been a lot of votes on this side of the aisle if we 20 were just dealing with the restroom issue. If we 21 were just dealing with the restroom issue, that 22 bill would have passed, and it would have passed 23 very quickly. But when we include these other 24 provisions dealing with contracting and employment, 25 there are very grave concerns that -- that I have,</p>	<p>1 inconsistent, that's illogical, and it's 2 unconscionable. 3 I want you to go back to your districts 4 and look at your constituents -- look them in the 5 eye. It would be very insulting to me, as a 6 younger person, as a black person, as a male, as a 7 Vance County native, for me to pay my taxes, to go 8 and hire a company that will not hire Vance County 9 people, that will not hire males, that will not 10 hire young people. That would be insulting to me. 11 So I want you to go back and talk to all 12 your constituents in your districts, look them in 13 the eye, and tell them how you've insulted them 14 today. Tell them that they may have friends, they 15 may have family members that may be gay, and their 16 tax money is used to hire companies that you made 17 it legal for them to discriminate against. 18 We're spending tax money to pay companies 19 to do work for us that are discriminating against 20 people. How is that common sense? How is that 21 consistent and logical reasoning? That's why I'm 22 voting no. 23 SPEAKER MOORE: For what purpose does the 24 gentleman from Mecklenburg, Representative Bishop, 25 arise?</p>

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1 REP. BISHOP: To debate the bill a second 2 time. 3 SPEAKER MOORE: The gentleman has the 4 floor to debate the bill a second time. 5 REP. BISHOP: I do know that making good 6 decisions requires accurate facts, and there are a 7 couple of items that I think it worth attending to 8 that have been said during the course of the debate 9 or -- or they've been said in the community. WRAL 10 today released a story early on saying that a 11 version of a draft of the bill eliminated 12 protections for folks with disabilities from 13 discrimination. And I just want to say, I've said 14 it in committee, I just want to say it here; that's 15 factually wrong. 16 Now, we have a separate -- there's a 17 separate general statutes -- separate statute in 18 North Carolina Chapter 168A, that provides 19 comprehensive protection from discrimination for 20 those who are disabled; that's in addition to 21 federal law, federal Americans with Disabilities 22 Act. So that's just factually wrong. 23 In the course of the Minority Leader's 24 comments, I understood he listed the names of a lot 25 of companies who have policies, enlightened	126	128  1 in the 4th Circuit. But that position, that some 2 have suggested could have some implication for 3 Title IX funding, the Obama Administration's 4 position, has not been accepted by any court 5 anywhere in the country. 6 The other decision out on that point 7 comes from -- it's in a case, Johnson versus 8 University of Pittsburgh, from the Western District 9 of Pennsylvania, that one was in March of 2015. 10 That case is on appeal as well, in the 3rd Circuit. 11 But no court has embraced that position at this 12 point in time. Should that occur some day, should 13 a court with jurisdiction over this area, decide 14 that Title IX is -- does not mean, when it says 15 sex, what everybody's always understood that it 16 means, and that the regulation under Title IX 17 that's been quoted twice by Representative Dollar 18 and Representative Stam, that explicitly permits 19 separate toilet, locker room and shower facilities 20 on the basis of sex; if that regulation is, by 21 virtue of those decisions -- of -- of a decision to 22 be -- here -- you know, hereafter to occur will be 23 invalidated, then there will be a process after 24 that point in time which North Carolina or any 25 other jurisdiction that has had separate bathrooms
1 policies, concerning how employees will be treated. 2 And I think it was clear, but I just want to make 3 it clear in case there was an implication to the 4 contrary, those companies will be entirely free to 5 continue pursuing the policies that they, in their 6 wisdom, have decided to adopt. And that's 7 perfectly consistent with the idea that we want to 8 maximize freedom of -- of, in fact -- in fact, the 9 absence of -- of a problem that should've led to 10 the creation of an emergency that -- as it has 11 occurred. 12 Representative Hamilton recited, or 13 stated she was reciting, part of the holding in 14 a -- in a lawsuit in -- in -- that was pending 15 in -- the eastern district of Virginia decided in 16 2015, that is now on appeal to the 4th Circuit 17 Court of Appeals. And she -- in -- in reciting 18 what she said was the holding, she was reciting, in 19 fact, the position of the Obama Department of 20 Education, to say that not allowing a child in 21 school to go into the multi-occupancy bathroom 22 facilities of the opposite sex, as a -- as a 23 transgender child, was a violation of Title IX. 24 In fact, the court there held against the 25 Obama Administration. So that decision's on appeal	127	129  1 for boys and girls, will be able to adapt, before 2 there would ever be any implication for Title IX 3 funding to go away. So that is really immaterial 4 to the decision we're making today. 5 And -- and I guess I should also say, if 6 those decisions occur, they would preempt what 7 we're doing today to the extent there was an 8 inconsistency. So it is a figment of folks' 9 imagination to say that that is a risk. 10 To the point about why we're here. In 11 January, January 19, I believe it was, I released a 12 public statement in anticipation -- because the 13 Mayor of Charlotte, newly elected, had repeated 14 time and again that this was going to be at the top 15 of the City Council's priority list, amazing as 16 that is. And I urged her and the City Council not 17 to go down this divisive route. And I spent -- 18 I've spent an inordinate amount of time, because I 19 laid out for them the law, and the fact that they 20 were not authorized to do what they contemplated 21 doing. 22 I would have been better served, on 23 behalf of the people that I represent, if I could 24 have spent the time that I've spent on this, 25 learning more about our process for Medicaid

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<p style="text-align: right;">130</p> <p>1 reform, about additional tax reform that we need to 2 do, about budget adjustments in the upcoming short 3 session. We'd all be better served if those folks 4 had not precipitated this need for a short session. 5 I wish that they had not.</p> <p>6 I regret that it has produced the 7 division among us that it has, but I am confident 8 that this body owes it to the people of North 9 Carolina to correct this egregious overreach and 10 poor public policy. Thank you very much.</p> <p>11 SPEAKER MOORE: Further discussion, 12 further debate? If not, the question before the 13 House is the passage of House Bill 2 on its second 14 reading. Those in favor will vote aye; those 15 opposed will vote no. The Clerk will open the 16 vote.</p> <p>17 (Votes recorded.)</p> <p>18 SPEAKER MOORE: The Clerk will lock the 19 machine and record the vote. 83 having voted in 20 the affirmative, and 25 in the negative, House Bill 21 2 passes its second reading and will be read a 22 third time.</p> <p>23 CLERK: The General Assembly of North 24 Carolina enacts.</p> <p>25 SPEAKER MOORE: Further discussion,</p>	<p style="text-align: right;">132</p> <p>STATE OF NORTH CAROLINA COUNTY OF WAKE CERTIFICATION OF TRANSCRIPT</p> <p>This is to certify that the foregoing transcript of proceedings held on March 23, 2016, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.</p> <p>This 16th day of April, 2016.</p> <p>Brad Worley, transcriptionist Worley Reporting P.O. Box 99169 Raleigh, NC 27624 919-870-8070 <a href="mailto:brad@worleyreporting.com">brad@worleyreporting.com</a></p>
<p style="text-align: right;">131</p> <p>1 further debate? If not, the question before the 2 House is the passage of House Bill 2 on its third 3 reading. Those in favor will vote aye; those 4 opposed will vote no. The Clerk will open the 5 vote.</p> <p>6 (Votes recorded.)</p> <p>7 SPEAKER MOORE: Is Representative Dobson 8 still on the floor? The Clerk will lock the 9 machine and record the vote. 83 having voted in 10 the affirmative, and 24 in the negative, House Bill 11 2 passes its third reading. The bill is ordered 12 engrossed and sent to the Senate. Representative 13 Dobson, the Chair saw you on the floor when the 14 question was put. Does the gentleman wish to be 15 recorded as having voted aye?</p> <p>16 REP. DOBSON: Yes.</p> <p>17 SPEAKER MOORE: The gentleman will be 18 recorded as having voted, aye.</p> <p>19 (End of audio.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

Worley Reporting

# EXHIBIT E

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NORTH CAROLINA GENERAL ASSEMBLY  
NORTH CAROLINA SENATE

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TRANSCRIPT OF THE PROCEEDINGS  
FLOOR SESSION

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In Raleigh, North Carolina  
Wednesday, March 23, 2016  
Transcribed by Brad Worley

Worley Reporting  
P.O. Box 99169  
Raleigh, NC 27624  
919-870-8070

## Senate Floor Session NCGA HB 2 - March 23, 2016

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<p>1 LT. GOV. FOREST: This being the time and      2 place, in accordance with the Constitution of the      3 State of North Carolina, and pursuant to the joint      4 proclamation issued by the President of the Senate      5 and the Speaker of the House, after receiving      6 written requests of three-fifths of all members of      7 the Senate and House of Representatives for the      8 convening of the 2016 second extra session of the      9 General Assembly of North Carolina, the Senate will      10 come to order. The Sergeant-at-Arms will close the      11 doors. Members will go to their seats. Members      12 and guests in the gallery, please silence all your      13 electronic devices.</p> <p>14 Leading the Senate in prayer is the      15 Reverend Peter Milner, Senate Chaplain. All      16 members and guests in the gallery will please      17 stand, and remain standing for the Pledge of      18 Allegiance following the prayer.</p> <p>19 REV. MILNER: Let's bow our heads and      20 pray. Almighty God, thank you for life. Thank you      21 for a beautiful day, for gathering us together. As      22 we gather with our hopes and dreams, and as we      23 watch spring come to life around us, Lord, help us      24 to remember we are entirely dependent upon you. We      25 can't do anything without you. Lord, in you alone</p>	<p>1 therefore, the Speaker of the House of      2 Representatives and the President of the Senate do      3 hereby proclaim the General Assembly of North      4 Carolina shall convene in extra session in the City      5 of Raleigh, North Carolina, in the State      6 Legislative Building, at 10 o'clock a.m. on      7 Wednesday, March 23rd, 2016, to consider bills      8 concerning the organization or operation of the      9 extra session, in bills to provide for single-sex,      10 multiple occupancy bathroom and changing      11 facilities, and to create statewide consistency in      12 regulation of employment and public accommodations.      13 A copy of this proclamation shall be delivered to      14 each member of the House of Representatives and the      15 Senate, and a copy to the Governor of North      16 Carolina and the Secretary of State. Issued this      17 22nd day of March, 2016. President of the Senate,      18 Dan Forest. Speaker of the House, Representative      19 Tim Moore.</p> <p>20 LT. GOV. FOREST: Written petitions from      21 31 Senators and 72 Representatives are on file in      22 the respective offices of the principal clerks,      23 where -- where they shall remain for a period of      24 two years. The names of those signatories shall be      25 spread upon the Journal.</p>
<p>1 is my soul at rest, for our true hope comes from      2 you. You alone are our stronghold, our rock, our      3 fortress. In Him, we can stand firm. Fill us,      4 then, with renewed hope in you, for in you alone is      5 our soul at rest. It's in Jesus' name we pray.      6 Amen.</p> <p>7 LT. GOV. FOREST: Please join me for the      8 Pledge of Allegiance.</p> <p>9 (Pledge of Allegiance recited.)</p> <p>10 LT. GOV. FOREST: The Reading Clerk will      11 read the joint proclamation.</p> <p>12 CLERK: Joint proclamation to convene the      13 General Assembly of North Carolina in extra      14 session. Whereas, Article 2, Section 11.2 of the      15 Constitution of North Carolina authorizes and      16 requires the Speaker of the House of      17 Representatives and the President of the Senate to      18 convene the General Assembly in extra session by      19 joint proclamation upon receipt of written request,      20 signed by three-fifths of all members of the House      21 of Representatives and the Senate; and whereas, the      22 President of the Senate and the Speaker of the      23 House of Representatives have each received written      24 requests from three-fifths of the members of the      25 House of Representatives and the Senate; now,</p>	<p>1 2      3      4      5      6      7      8      9      10      11      12      13      14      15      16      17      18      19      20      21      22      23      24      25</p> <p>1      2      3      4      5      6      7      8      9      10      11      12      13      14      15      16      17      18      19      20 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Worley Reporting

Senate Floor Session  
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<p style="text-align: right;">6</p> <p>1 SEN. CLARK: Present. 2 CLERK: Cook? 3 SEN. COOK: Present. 4 CLERK: Curtis? Curtis? Daniel? 5 SEN. DANIEL: Present. 6 CLERK: D. Davis? 7 SEN. D. DAVIS: Present. 8 CLERK: J. Davis? 9 SEN. J. DAVIS: Present. 10 CLERK: Ford? Ford? Foushee? 11 SEN. FOUSHEE: Present. 12 CLERK: Gunn? 13 SEN. GUNN: Present. 14 CLERK: Harrington? 15 SEN. HARRINGTON: Present. 16 CLERK: Hartsell? 17 SEN. HARTSELL: Present. 18 CLERK: Hise? 19 SEN. HISE: Present. 20 CLERK: B. Jackson? 21 SEN. B. JACKSON: Present. 22 CLERK: J. Jackson? 23 SEN. J. JACKSON: Present. 24 CLERK: Krawiec? Lee? 25 SEN. LEE: Present.</p>	<p style="text-align: right;">8</p> <p>1 SEN. TARTE: Present. 2 CLERK: Tillman? 3 SEN. TILLMAN: Here. 4 CLERK: Tucker? 5 SEN. TUCKER: Present. 6 CLERK: Van Duyn? 7 SEN. VAN DUYN: Present. 8 CLERK: Waddell? Waddell? Wade? 9 SEN. WADE: Present. 10 CLERK: Wells? 11 SEN. WELLS: Present. 12 CLERK: Woodard? 13 SEN. WOODARD: Present. 14 LT. GOV. FOREST: With 42 members present, and having properly received and subscribed to the oath of office, a quorum is present. Members may be seated. The Constitution of North Carolina, General Statutes and the Senate Rules of the 2015 regular session provide for two-year terms for Senate officers. Without objection, the record will reflect that the officers of the 2015 regular session shall -- shall serve as officers of this extra session. Senator Apodaca is recognized. SEN. APODACA: Mr. President, send forth</p>
<p style="text-align: right;">7</p> <p>1 CLERK: Lowe? 2 SEN. LOWE: Present. 3 CLERK: McInnis? 4 SEN. MCINNIS: Present. 5 CLERK: McKissick? 6 SEN. MCKISSICK: Present. 7 CLERK: Meredith? 8 SEN. MEREDITH: Present. 9 CLERK: Newton? 10 SEN. NEWTON: Present. 11 CLERK: Pate? 12 SEN. PATE: Present. 13 CLERK: Rabin of Harnett? 14 SEN. RABIN: Present. 15 CLERK: Rabon of Brunswick? 16 SEN. RABON: Present. 17 CLERK: Randleman? 18 SEN. RANDLEMAN: Present. 19 CLERK: Robinson? 20 SEN. ROBINSON: Present. 21 CLERK: Rucho? Rucho? Sanderson? 22 SEN. SANDERSON: Present. 23 CLERK: Smith? Smith? Smith-Ingram? 24 SEN. SMITH-INGRAM: Present. 25 CLERK: Soucek? Soucek? Tarte?</p>	<p style="text-align: right;">9</p> <p>1 rules for the Special Session. 2 LT. GOV. FOREST: Send forth rules, 3 Senator. Introduction of Resolutions. The Clerk 4 will read. 5 CLERK: Introduction of Rules. The 6 Senate Resolution document, Permanent Rules of the 7 Senate for the 2016 Second Extra Session of the 8 General Assembly. 9 LT. GOV. FOREST: Senate Resolution 1. 10 The Clerk will read. 11 CLERK: Senate Resolution. The Senate 12 Resolution adopting the Permanent Rules of the 13 Senate for the 2016 Second Extra Session of the 14 General Assembly. 15 LT. GOV. FOREST: Senator Apodaca is 16 recognized to explain the Resolution. 17 SEN. APODACA: Thank you, Mr. President 18 and members. This authorizes two committees during 19 this special session. That'll be Judiciary II, and 20 the Rules Committee. It allows bills to be 21 introduced and read on the same day of filing. It 22 limits the scope of bills that can be filed to those 23 providing for single-sex, multiple occupancy 24 bathroom and changing facilities, and to create a 25 statewide consistency in regulation of employment</p>

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1       and public accommodations. Rule 41 is the 2       crossover rule. We are reserving this rule so that 3       there is no eligibility for those bills.  4       The rest of this pretty well says same 5       day, meaning we can operate the same day on first, 6       second reading: ratification; anything coming from 7       the House, we can handle the same day. Senator 8       Jackson, this has nothing to do with independent 9       redistricting. And with that being said, I'll be 10      happy to answer any questions.  11      LT. GOV. FOREST: Do we have any 12      questions on the Rules? Thank you, Senator.  13      The Chair directs the Principal Clerk to 14      send a message to the House of Representatives -- 15      hold on one second. Sorry, Senators, we have to 16      vote those Rules in. So, any further discussion or 17      debate on the Rules? Questions to Senator Apodaca? 18      Hearing none, the question before the Senate is the 19      motion to adopt the Rules for Senate Resolution 1. 20      All in favor, vote aye; opposed, vote no. Five 21      seconds to be allowed for the voting. The Clerk 22      will record the vote.  23      (Votes recorded.) 24      LT. GOV. FOREST: 31 having voted in the 25      affirmative, and 11 in the negative, the motion to	10  1       Respectfully, Denise Weeks, Principal Clerk. 2       (Recess.) 3       LT. GOV. FOREST: The Senate will stand 4       in recess subject to the standard stipulations set 5       forth in Senate bill -- excuse me, Senate Rule 6       24.1, the Receipt and Referral of Committee Reports 7       and the Receipt of House Messages, to reconvene at 8       4:00 p.m. 9       (Recess.) 10      CLERK: Message from the House: House 11      Joint Resolution 3, the joint resolution providing 12      for adjournment, sine die, of the 2016 Senate extra 13      session, Calendar. 14       (Recess.) 15      LT. GOV. FOREST: So, just another update 16      here. The Assembly will stand in recess subject to 17      the standard stipulations set forth in Senate Rule 18      24.1, the Receipt and Referral of Committee Reports 19      and the Receipt of House Messages, to reconvene at 20      5:00 p.m. 21       (Recess.) 22      CLERK: Message from the House: House 23      Rule 2, An Act to Provide for Single-Sex, Multiple 24      Occupancy Bathroom and Changing Facilities in 25      Schools and Public Agencies, and to Create
1       adopt has passed. So, now, the Chair directs the 2       Principal Clerk to send a message to the House of 3       Representatives, informing that honorable body that 4       the Senate is now ready to proceed with the 5       business for which it has been reconvened. 6       Senators, we have leaves of absence requested today 7       for your approval. They're granted for Senators 8       Barringer, Bryant, Smith, Soucek, Rucho, Ford and 9       Waddell. Senator Berger is recognized.  10      SEN. BERGER: Thank you, Mr. President. 11      I move that the Senate stand in recess subject to 12      the standard stipulations set forth in Senate Rule 13      24.1, Receipt and Referral of Committee Reports, 14      and Receipt of House Messages, to reconvene at 2:30 15      p.m. today.  16      LT. GOV. FOREST: The Senate stands in 17      recess until 2:30 this afternoon.  18      (Recess.)  19      CLERK: Message from the House: Mr. 20      President, pursuant to a joint proclamation issued 21      by the House Representative and the Senate on March 22      22nd, 2016, the House of Representatives is 23      organized and is now ready to proceed with the 24      public business of the State in the second extra 25      session of the 2015 General Assembly.	11  1       Statewide Consistency in Regulations of Employment 2       and Public Accommodations. Sponsor: 3       Representatives Bishop, Stam, Howard, Steinburg. 4       Refer to Judiciary II. 5       (Recess.) 6       LT. GOV. FOREST: So we're standing in 7       recess subject to standard stipulations set forth 8       in Senate Rule 24.1, the Receipt and Referral of 9       Committee Reports and the Receipt of House 10      Messages, to reconvene at 5:45. 11       (Recess.) 12      LT. GOV. FOREST: The Senate will come to 13      order. Sergeant-at-Arms, close the doors. 14      Members, go to their seats. Members and guests in 15      the gallery, please silence all electronic devices. 16      Senators, let the record reflect that Senator 17      Barringer is now in the chamber. Reports of 18      Standing Committees. 19      SEN. RANDLEMAN: Send forth the 20      committee. 21      LT. GOV. FOREST: Senator Randleman, you 22      can send forward your committee report. The Clerk 23      will read. 24      CLERK: Senator Randleman, the Judiciary 25      II Committee submits the passage, House Bill 2,

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1	Public Facilities Privacy and Security Act, 2 favorable.	1 us that men don't belong in the ladies' bathroom. 2 It's a matter of public safety.
3	LT. GOV. FOREST: House Bill 2, Calendar. 4 So that takes us right into our Calendar, House 5 Bill 2. The Clerk will read.	3 Under this ordinance that they've put 4 forward, anyone, quite frankly, with -- with that 5 intent, could use this Charlotte ordinance as an 6 excuse to be somewhere that we all know they don't 7 belong. So if the City of Charlotte had listened 8 to the lawyers, who told them not to do it, that 9 they didn't have the authority; if they'd listened 10 to Representative Bishop, who represents part of 11 Charlotte and a very, very smart attorney who sent 12 them a letter detailing to them why this was a bad 13 idea; if they'd listened to the Governor, warned 14 them not to do it, we wouldn't be here today. And, 15 frankly, if the Attorney General would do his job, 16 we wouldn't be here today. It would've been easy 17 for him to put this to a stop before we had to have 18 a special session.
10	SEN. NEWTON: Thank you, Mr. President. 11 Thank you, members. I rise to discuss this 12 legislation that we have been brought back to town 13 to address. As -- as we all know, unfortunately, 14 the City Council of Charlotte lost their mind, and 15 decided to embark upon a very radical course and 16 a -- a new -- I guess you would call it an 17 ordinance. Something that -- that they knew that 18 they didn't have the authority to do. They didn't 19 care.	19 And frankly, I -- I just can't believe 20 that we're here today having to talk about this. 21 But for the City Council of Charlotte, we wouldn't 22 have to talk about these things. All of us have 23 been receiving thousands and thousands of e-mails, 24 and letters, phone calls from our constituents, 25 begging us to solve this problem, to fix this
20	The City Council of Charlotte -- the 21 majority, anyway, decided that they would bow to 22 the altar of -- of radical political correctness. 23 And in so doing, created a -- a real public safety 24 risk with the citizens of this state that -- that 25 may choose to visit Charlotte; or that live in	15
1	Charlotte; or, frankly, for those who visit 2 Charlotte from other places in the country. And 3 this standard would allow, as we've heard in the 4 media -- would allow men into the locker rooms and 5 the bathrooms of females -- of our daughters, of 6 our wives. This policy must not be allowed to go 7 forward. And that is why we're here today, because 8 the City of Charlotte and its City Council have 9 decided that, quite frankly, that they don't -- 10 they don't care about common sense, and that they 11 don't really -- are -- are not really that 12 concerned about public safety of folks that -- that 13 go in the bathroom in -- in the City of Charlotte. 14 And I know that sounds harsh, but that is -- that's 15 the reality.	1 insanity, before it goes into effect. And that's 2 why we're here.
16	And, colleagues, I -- I will point out 17 that the City of Charlotte knew, they acknowledged 18 privately to some folks, and I think there was even 19 some public acknowledgement -- they knew they 20 didn't have the authority to do this. They -- they 21 just wanted to do it anyway. And it's important 22 that we recognize that we live in a state of laws, 23 and we have a Constitution. And it is important 24 that the state have a uniform system of rules -- of 25 rules and regulations. And that common sense tells	3 So we have got a very good piece of 4 legislation before us today that will address these 5 issues. Many of us were in the committee that we 6 just held, in the Judiciary Committee. We had a -- 7 a full explanation. We heard from the public. I 8 think there's been quite a long explanation over on 9 the House side, in their Judiciary Committee and on 10 the floor. I'll be happy to go over details for 11 people, if there are questions from other members.
17		12 But the broad aspects of this bill are 13 that we're going to set a statewide standard for 14 who belongs in which bathroom. We're going to do 15 this in public buildings across the state. We're 16 going to do this for municipalities and counties, 17 courthouses, and we're going to do this for our 18 public schools.
18		19 We're also going to make sure that it's 20 clear that cities and counties don't have the 21 authority to wade into the policies of -- of 22 questions like what should be the minimum wage, or 23 what should be the employment practices of 24 companies here in North Carolina. And we do this 25 to protect our businesses and protect our working

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1       environment. There should not be a patchwork from 2       one end of the state to the other, where businesses 3       have to hire a lawyer in each community, or each 4       county, to try to figure out what regulation 5       they're subject to today, and which ordinance 6       changes tomorrow.  7       And -- and frankly, the rules on things 8       like this, what should be the same in Asheville, as 9       they are in Boone, as they are in Morehead City, as 10      they are in Greenville, or in Raleigh. And it's 11      important for this body, and for this institution 12      and General Assembly, to set forth these standards.  13      But even more important, it's important 14      for the members to understand that, in the course 15      of putting this legislation together, and trying to 16      decide how was the best way to move forward with 17      the policy of North Carolina, it became clear that 18      something was lagging, that we had not taken care 19      of here in the State of North Carolina. And 20      federal law's pretty clear about discrimination in 21      employment and public accommodation. But the State 22      of North Carolina had never enacted a public policy 23      on public accommodation, stating that you shouldn't 24      discriminate against someone say, based on their 25      religion or their race, and deny them, say, a hotel	18  1       SEN. BLUE: Well, Senator Newton here for 2       a question. 3       LT. GOV. FOREST: Senator Newton, do you 4       yield? 5       SEN. NEWTON: I do. 6       SEN. BLUE: Senator Newton, does this 7       bill have any enforcement mechanisms in it? 8       SEN. NEWTON: Senator Blue, you mean, 9       in -- as it relates to the -- the new policy of -- 10      on the public accommodations? Is that what you're 11      referring to? 12      SEN. BLUE: In any aspect of it. In 13      either of the three sections of the bill, is there 14      any enforcement mechanism? 15      SEN. NEWTON: No. 16      SEN. BLUE: Another question, Mr. 17      President, follow-up? 18      LT. GOV. FOREST: Does the Senator yield? 19      SEN. NEWTON: I do. 20      SEN. BLUE: Perhaps you could explain to 21      me, if, in fact, a man goes into a woman's 22      bathroom, what is the crime that's been committed, 23      under this bill? 24      SEN. NEWTON: Under existing law, it 25      would be a second degree trespass, unless there are
1       room. We're fixing that in this legislation.  2       This legislation expands the public 3       policy of this state to clarify that discriminating 4       based on race and religion -- and it's even 5       stronger than the federal law -- that that's not 6       acceptable here in this state, and it's long 7       overdue; it's long overdue.  8       So those are the main highlights of what 9       this bill does. But I urge you to join me in 10      passing this legislation, and joining the House in 11      passing this legislation, to clarify what the 12      standards are in North Carolina; to clarify that we 13      don't need to worry about who is in the bathroom in 14      the City of Charlotte; to clarify, for the 15      citizens, that they can have confidence about who 16      is sharing the locker room with them. It's 17      imperative that we do this today.  18      I appreciate your attention, I commend 19      the bill to you, and I'm happy to answer any 20      questions. Thank you.  21      LT. GOV. FOREST: Do we have any 22      discussion or debate?  23      SEN. BLUE: I have a question.  24      LT. GOV. FOREST: Senator Blue, for what 25      purpose do you arise?	19  1       other circumstances -- like they were going in 2       there to clean it. 3       SEN. BLUE: Another question, Mr. 4       President. 5       LT. GOV. FOREST: Senator Newton, do you 6       yield? 7       SEN. NEWTON: I do. 8       SEN. BLUE: So under existing state law, 9       it is an offense for a male to go into a female's 10      bathroom. 11      SEN. NEWTON: It has been held as such in 12      case law in this state. 13      SEN. BLUE: One -- one final question, 14      Mr. President. 15      LT. GOV. FOREST: Senator Newton, do you 16      yield? 17      SEN. NEWTON: I do. 18      SEN. BLUE: Does a local government have 19      the power to override a state law without being 20      given specific consent by the state to do that? 21      SEN. NEWTON: Senator Blue, I really 22      appreciate that question, and I think it -- it begs 23      examination by the public and this body, as to why 24      it is that our Attorney General remains silent in 25      enforcing the laws of this state? It is clear that

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1       an ordinance does not trump state law. 2           SEN. BLUE: Okay. Speaking on the bill, 3           Mr. President. 4           LT. GOV. FOREST: Senator Blue, you have 5           the floor. Speak to the bill. 6           SEN. BLUE: Mr. President, ladies and 7           gentlemen of the Senate, we're here three weeks 8           before our regular session. And, to be honest with 9           you, disrupting a very narrow window that many of 10          us have to earn a living when this place is not in 11          session. And we're here because I think that we've 12          played on fears of the citizenry unjustly and 13          unfairly. 14          I have a wife, a daughter, five 15          granddaughters, and rest assured, there's nothing 16          that I wouldn't do to protect them, whether at 17          school, in public places, or anywhere else, against 18          anybody who would harm them in any way at all. And 19          when I first heard of -- of this ordinance by the 20          City of Charlotte, I started examining it on the 21          same basis that Senator Newton -- that I asked 22          Senator Newton these questions, and concluded that 23          if we are serious about really protecting kids from 24          bathrooms, then we'd make it serious offenses for 25          males to be in women's bathrooms. This bill does	22	1       jeopardize the safety of the citizens of Charlotte. 2           But it's the broader points that cause me 3           concern, because I think that we are abandoning the 4           fundamental value of limited government and shared 5           government in many ways in this bill. If we 6           proclaim ourselves to be constitutionalists, then 7           we start creating unconstitutional discrimination 8           of any form, then we're being hypocritical. 9           To rescind local nondiscrimination 10          policies at the local level pulls the rug from 11          under millions of voters across the state that 12          entrust the 500-and-plus local governments that are 13          closer to them to decide best how they want to 14          proceed. 15          Now, I agree with Senator Newton; if the 16          City of Charlotte had no authority to do this, it 17          would have taken 15 minutes to get a temporary 18          restraining order, 10 days to get a preliminary 19          injunction, and if it was so clear, then a couple 20          of weeks later, to get a permanent injunction from 21          this ordinance ever going into effect, without 22          scaring the bejesus out of the citizens of this 23          state. And so, I look at it in a broader sense, 24          because I think that the turning of our backs on 25          North Carolinians by frightening them is not in our	24
1       nothing to do that. So we're using that as a basis 2       for this legislation, and not doing anything to 3       address the real issue. 4       For the past several weeks, and certainly 5       more intentionally over the last week, I've tried 6       to figure out what was going on in the drafting of 7       this bill, since this seemed so urgent, so that we 8       could have some input. Because if we generally 9       have the fears about what the bill does from the 10       standpoint of safety, all of us ought to be 11       involved in fixing it. Well, seemingly, whatever 12       my ideas were didn't matter at all, because they 13       weren't sought, and weren't solicited or listened 14       to. 15       And so, it made me look at the broader 16       aspects of this bill in light of some of my 17       fundamental beliefs. I believe in small government 18       in many ways, and the people's right to govern 19       themselves. And there are 800-plus-thousand people 20       in Charlotte, over a million in Mecklenburg County, 21       and I respect their ability to govern themselves, 22       as they should be able to. And the voters in 23       Charlotte, whether they're afraid of this or 24       anything else, have the ability to put them out of 25       office, which is what they should do if they	23	1       best interest. 2           But I worry about the local government 3           and the economic impact of this kind of 4           legislation, because I was in Indiana last year at 5           the height of that -- when the question got to be 6           whether or not a state or a city was intentionally 7           embracing some form of discrimination. And I saw 8           the fallout. Whether people fully understood what 9           they were trying to accomplish or not, I saw the 10           fallout. And I'm frightened for that kind of 11           fallout in North Carolina. When you look at what 12           21st Century companies start looking like, we're a 13           state that celebrates intolerance, and we'll take 14           some hit for taking pride in perpetuating prejudice 15           and repealing statutes that, over time -- over a 16           thirty- or forty-year period -- that these local 17           governments have adopted, whether it's relating to 18           their local human -- human relations commissions, 19           as -- as it relates to the state Human Relations 20           Commission, and slowly pecking away at different 21           forms of discrimination. And I think that as we 22           debate this bill, there are already Fortune 500 23           companies that have expressed their grave concerns 24           and very strong opposition. I think about things 25           like that.	25

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1        This bill essentially ties a noose around 2        the necks of the cities and counties, and it 3        smothers their ability to govern in the way that 4        their citizens think they ought to. 5        If we think that something ought to be a 6        crime, the State's job is -- our job is to make it 7        a significant crime, so that people who do it are 8        punished. 9        So, given the fact that, number one, it 10      seems that whatever our thoughts on this issue may 11      have been, they're irrelevant and unimportant. And 12      given the fact that you got a direct assault on 13      the ability of people to govern themselves, that 14      you've got a rollback of 40-plus years of 15      antidiscrimination activity, that we, as Democrats, 16      have determined that since we aren't important to 17      it, we don't have to be a part of it. 18       And so, we're not participating in this 19      effort that you make, to roll back the clock in 20      this state, to take away powers from local 21      governments; not just as it relates to 22      discrimination, but as it relates to their ability 23      to do what we say that we authorize them to do. 24       And ultimately, perhaps it would be best if we 25      started down the road to suspending their charters	26	1        purpose do you arise? 2        SEN. BERGER: Speak to the bill. 3        LT. GOV. FOREST: Senator Berger, you 4        have the floor. 5        SEN. BERGER: Thank you, Mr. President. 6        I -- I think it's interesting. We are here today 7        for two reasons, primarily. One, because the City 8        of Charlotte decided that they were going to pass 9        an ordinance that allows grown men to share 10      bathrooms and locker facilities with girls and 11      women. That's one reason we're here today. 12       The second reason we're here today, 13      though, is something pointed out by Senator Blue, 14      interestingly enough -- because our Attorney 15      General would not do his job. He's right. What 16      should have happened is the chief law enforcement 17      officer of this state should have filed a court 18      case to enjoin the adoption, or the implementation, 19      of this ordinance. Somebody wasn't doing their 20      job. And so we are now here today because of that 21      double failure. The failure on the part of the 22      Charlotte City Council to listen to reason, and the 23      failure on the part of the Attorney General to do 24      his job. 25       So what do we have? We have -- we have a	28
1        by taking away their roles as extensions of us, as 2        county governments. And I think that this is a far 3        cry from the kind of legislation that merits 4        emergency treatment, since we will be here in three 5        days -- three weeks, anyhow. 6        SEN. APODACA: Mr. President? 7        LT. GOV. FOREST: Senator Apodaca, for 8        what purpose do you rise? 9        SEN. APODACA: Would Senator Blue yield 10      to a question? 11       LT. GOV. FOREST: Senator Blue, do you 12      yield? 13       SEN. BLUE: I yield. 14       SEN. APODACA: Senator Blue, do we need 15      to take a recess so that your members can come back 16      and do their constitutional duty? 17       SEN. BLUE: Their constitutional duty is 18      to vote and participate when their participation is 19      allowed. It is the -- it has not been allowed in 20      this process, Senator Apodaca. So -- so we do not 21      need to take a recess. 22       SEN. APODACA: Well, I say we move on, 23      Mr. President. 24       LT. GOV. FOREST: Is there any further 25      discussion or debate? Senator Berger, for what	27	1        bill that makes it clear that we are not going to 2        put our citizens in further danger because of the 3        recklessness of the Charlotte City Council. I 4        think Sheriff Barnes of Guilford County made it 5        quite clear when he said that a majority of the 6        people should not have to compromise their safety 7        and privacy in public bathrooms, showers and locker 8        rooms. And he also felt that it was inappropriate 9        to have officers put in the awkward position of 10      trying to determine whether or not someone thinks 11      they're a man, or thinks they're a woman, as far as 12      going to the restroom is concerned. No, there's no 13      question that we would not be here if not for the 14      Charlotte City Council. 15       And the natural consequence -- the 16      natural consequence of -- of what Charlotte has 17      done has actually been pointed out fairly recently 18      in the city of Seattle, that had something fairly 19      similar to this. In -- in Seattle, what happened 20      is, a man shows up in a locker room that is being 21      used by a girls' swim team. He disrobes, sits 22      there while the girls come in to change into their 23      swimming gear. And when confronted, he says, I 24      have a right to be here because I'm transgender. 25      Now, that is, unfortunately, a consequence of -- of	29

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<p style="text-align: right;">30</p> <p>1 what happened in Seattle, and something a lot worse 2 could very well happen as a result of this 3 ordinance.</p> <p>4 I said a couple of weeks ago that -- that 5 the adoption of the ordinance by the City Council 6 of Charlotte was just crazy, and I think most 7 people in this state feel the same way. I think 8 one of the interesting facts that has really not 9 been talked about is, we have spent more time, the 10 House and the Senate today, considering, debating, 11 talking about, answering questions, trying to get 12 an understanding of the consequence of the 13 ordinance, and the consequence of this bill, than 14 the City Council of Charlotte spent in adopting the 15 ordinance. There was no committee -- no committee 16 to -- to review the ordinance. There was no public 17 discussion, as we've -- as we've had here. There 18 was no debate back and forth, as we've had here in 19 both the House and the Senate. No. This body has 20 taken a very measured approach to what has been a 21 very radical action by the City Council of 22 Charlotte. I urge you to support the bill.</p> <p>23 SEN. APODACA: Mr. President?</p> <p>24 LT. GOV. FOREST: Senator Apodaca, what 25 purpose do you rise?</p>	<p style="text-align: right;">32</p> <p>1 CLERK: Blue? Blue? Brock? 2 SEN. BROCK: Aye. 3 CLERK: Brown? 4 SEN. BROWN: Aye. 5 CLERK: Bryant? Bryant? Clark? Clark? 6 Cook? 7 SEN. COOK: Aye. 8 CLERK: Curtis? 9 SEN. CURTIS: Aye. 10 CLERK: Daniel? 11 SEN. DANIEL: Aye. 12 CLERK: D. Davis? D. Davis? J. Davis? 13 SEN. J. DAVIS: Aye. 14 CLERK: Ford? Ford? Foushee? Foushee? 15 Gunn? 16 SEN. GUNN: Aye. 17 CLERK: Harrington? 18 SEN. HARRINGTON: Aye. 19 CLERK: Hartsell? 20 SEN. HARTSELL: Aye. 21 CLERK: Hise? 22 SEN. HISE: Aye. 23 CLERK: B. Jackson? 24 SEN. B. JACKSON: Aye. 25 CLERK: J. Jackson? J. Jackson?</p>
<p style="text-align: right;">31</p> <p>1 SEN. APODACA: I move the vote taken on 2 House Bill 2 be done by roll call, please.</p> <p>3 LT. GOV. FOREST: No objection, so 4 ordered. Any further discussion or debate?</p> <p>5 Hearing none, the question before the Senate is the 6 passage of House Bill 2 on its second reading and 7 we will have a roll call vote. Clerk will read the 8 roll.</p> <p>9 CLERK: State of North Carolina General 10 Assembly, call of the roll.</p> <p>11 LT. GOV. FOREST: All in favor -- excuse 12 me, Clerk. All in favor, vote aye, those opposed, 13 vote no.</p> <p>14 CLERK: Alexander?</p> <p>15 SEN. ALEXANDER: Aye.</p> <p>16 CLERK: Apodaca?</p> <p>17 SEN. APODACA: Aye.</p> <p>18 CLERK: Barefoot?</p> <p>19 SEN. BAREFOOT: Aye.</p> <p>20 CLERK: Barringer?</p> <p>21 SEN. BARRINGER: Aye.</p> <p>22 CLERK: Berger?</p> <p>23 SEN. BERGER: Aye.</p> <p>24 CLERK: Bingham?</p> <p>25 SEN. BINGHAM: Aye.</p>	<p style="text-align: right;">33</p> <p>1 Krawiec?</p> <p>2 SEN. KRAWIEC: Aye.</p> <p>3 CLERK: Lee?</p> <p>4 SEN. LEE: Aye.</p> <p>5 CLERK: Lowe? Lowe? McInnis?</p> <p>6 SEN. MCINNIS: Aye.</p> <p>7 CLERK: McKissick? McKissick? Meredith?</p> <p>8 SEN. MEREDITH: Aye.</p> <p>9 CLERK: Newton?</p> <p>10 SEN. NEWTON: Aye.</p> <p>11 CLERK: Pate?</p> <p>12 SEN. PATE: Aye.</p> <p>13 CLERK: Rabin of Harnett?</p> <p>14 SEN. RABIN: Aye.</p> <p>15 CLERK: Rabon of Brunswick?</p> <p>16 SEN. RABON: Aye.</p> <p>17 CLERK: Randleman?</p> <p>18 SEN. RANDLEMAN: Aye.</p> <p>19 CLERK: Robinson? Robinson? Rucho?</p> <p>20 Rucho? Sanderson?</p> <p>21 SEN. SANDERSON: Aye.</p> <p>22 CLERK: Smith? Smith? Smith-Ingram?</p> <p>23 Smith-Ingram? Soucek? Soucek? Tarte?</p> <p>24 SEN. TARTE: Aye.</p> <p>25 CLERK: Tillman?</p>

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1           SEN. TILLMAN: Aye. 2           CLERK: Tucker? 3           SEN. TUCKER: Aye. 4           CLERK: Van Duyn? Van Duyn? Waddell? 5           Waddell? Wade? 6           SEN. WADE: Aye. 7           CLERK: Wells? 8           SEN. WELLS: Aye. 9           CLERK: Woodard? Woodard? 10          LT. GOV. FOREST: 32 having voted in the 11         affirmative, 0 in the negative, House Bill 2 passes 12         its second reading, and will be read a third time. 13          CLERK: North Carolina General Assembly 14         enacts. 15          SEN. APODACA: Mr. President, I move that 16         we do third reading electronically, please. I 17         don't think they're going to show back up. 18          LT. GOV. FOREST: Without objection, to 19         the orders. Is there any further discussion or 20         debate? Hearing none, all in favor of the passage 21         of House Bill 2 on its third reading will vote aye, 22         opposed will vote no. Five seconds will be allowed 23         for the voting. The Clerk will record the vote. 24          (Votes recorded.) 25          LT. GOV. FOREST: Lee, Senator Lee aye.	34	1           read a third time. 2           SEN. APODACA: Mr. President? 3           CLERK: North Carolina General Assembly 4         enacts. 5           LT. GOV. FOREST: Senator Apodaca, for 6         what purpose do you arise? 7           SEN. APODACA: Speak on third reading, 8         please. 9           LT. GOV. FOREST: Senator Apodaca, you 10        have the floor. 11          SEN. APODACA: Thank you, Mr. President 12        and members. What this does is takes us out today, 13        sine die until April the 25th. I ask for your 14        support. 15          LT. GOV. FOREST: Is there any further 16        discussion or debate? Hearing none, all in favor 17        of the passage of House Joint Resolution 3 on its 18        third reading will say aye. 19          (Voice vote.) 20          LT. GOV. FOREST: Opposed, no? The ayes 21        have it. House Joint Resolution 3 passes its third 22        reading and will be enrolled. 23          Senator Berger, for what purpose do you 24        arise? Hold on, Senators, we're not done yet. 25          Senator Berger, you have the floor.	36
1         32 having voted in the affirmative, and 0 in the 2         negative, House Bill 2 passes its third reading and 3         will be enrolled and sent to the Governor via 4         special message. 5          House Joint Resolution 3, the Clerk will 6         read. 7          CLERK: House Joint Resolution 3. 8          Adjourn 2016 Second Extra Session. Senator Apodaca 9         is recognized to explain the resolution. 10        SEN. APODACA: Thank you, Mr. President 11        and members. We've been down this path before. 12        This takes us out until hopefully Wednesday, well, 13        takes us to April 25th. So I ask for your support, 14        unless you want to stay around a little longer, but 15        April 25th. 16        LT. GOV. FOREST: Is there any discussion 17        or debate? Hearing none, the question for the 18        Senate is the passage of House Joint Resolution 3 19        on its second reading. All in favor, vote aye, 20        those opposed, vote no. Five seconds to be allowed 21        for the voting, the Clerk will record the vote. 22          (Votes recorded.) 23        LT. GOV. FOREST: 32 having voted in the 24        affirmative and 0 in the negative, House Joint 25        Resolution 3 passes its second reading, and will be	35	1         SEN. BERGER: Mr. President, I have a 2         motion to get us out of here, so -- 3         LT. GOV. FOREST: Senator Berger, you 4         have the floor for your motion. 5         SEN. BERGER: Thank you, Mr. President. 6         Having concluded the business for which the Senate 7         was convened, I move that the Senate be now 8         adjourned. The 2016 Second Extra Session, sine 9         die, in accordance with House Joint Resolution 3 10        subject to the standard stipulations set forth in 11        Senate Rule 24.1, the Receipt of House Messages and 12        the Ratification of Bills and Resolutions. 13        LT. GOV. FOREST: Motion to the Senate to 14        now adjourn. The second extra session, sine die, 15        in accordance with House Joint Resolution 3 subject 16        to the stipulations stated by Senator Berger, 17        seconded by Senator Apodaca. All in favor, say 18        aye. 19          (Voice vote.) 20        LT. GOV. FOREST: Opposed, no. The ayes 21        have it, and the second extra session stands 22        adjourned, sine die. 23          (Adjournment sine die.) 24        LT. GOV. FOREST: Clarification of rules. 25        The Clerk will read.	37

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38 <p>1           CLERK: Enroll to Bill. Enrolling Clerk 2       reports the following bill is duly ratified for 3       presentation to the Governor. House Bill 2, An Act 4       to Provide for Single-Sex, Multiple Occupancy 5       Bathroom and Changing Facilities in Schools and 6       Public Agencies and to Create Statewide Consistency 7       in Regulation of Employment and Public 8       Accommodations. And the following resolution duly 9       ratified, properly enrolled, and prepared for the 10      presentation to the Office of Secretary of State. 11      House Joint Resolution 3, A Joint Resolution 12      Providing for Adjournment, Sine Die, of the 2016 13      Second Extra Session. 14           (Break in audio.) 15      CLERK: Message from the House. Mr. 16      President, it is ordered that a message be sent to 17      the Senate, informing that honorable body, that the 18      House of Representatives has concluded the business 19      in the 2016 Second Extra Session of the 2015 20      General Assembly in pursuant to HJR 3, first 21      edition, A Joint Resolution Providing for 22      Adjournment, Sine Sie, of the 2016 Second Extra 23      Session stands adjourned, sine die. Respectfully, 24      Denise Weeks, Principal Clerk. 25           (End of proceedings.)</p>	
39 <p>STATE OF NORTH CAROLINA COUNTY OF WAKE CERTIFICATION OF TRANSCRIPT This is to certify that the foregoing transcript of proceedings held on March 23, 2016, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action. This 16th day of April, 2016.</p> <p>Brad Worley, transcriptionist Worley Reporting P.O. Box 99169 Raleigh, NC 27624 919-870-8070 brad@worleyreporting.com</p>	

Worley Reporting

# EXHIBIT F

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NORTH CAROLINA GENERAL ASSEMBLY  
HOUSE JUDICIARY IV COMMITTEE

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TRANSCRIPT OF THE PROCEEDINGS

MARCH 23, 2016

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In Raleigh, North Carolina  
Wednesday, March 23, 2016  
Transcribed by Brad Worley

Worley Reporting  
P.O. Box 99169  
Raleigh, NC 27624  
919-870-8070

1 REP. BLACKWELL: If you would, try to 2 find a seat. I've got some preliminary matters 3 that I want to go over, so hopefully we'll 4 understand what we're going to try to do, and we'll 5 need to be a little bit flexible, I understand. 6 I want to start by saying to the members 7 of the committee, to help us judge the time that we 8 need to dispose of the bill by 11:45, which is my 9 intention, I would like you to indicate to the 10 staff behind me, as soon as you possibly can, if 11 you intend to offer an amendment. I don't have to 12 know what the amendment is, but I'd just like to 13 have an idea of how many we might possibly be 14 dealing with, if you could accommodate that. 15 If you're interested in speaking for or 16 against the bill, or if you simply want to speak on 17 the bill, if you will, register in the back; I 18 think there's a sign-up sheet back there. If you 19 don't consider yourself for or against, you might 20 want to sign up on the shortest list. You can 21 explain that you signed up on that side, but that 22 you're not really for or against. 23 My intention at this point, subject to 24 getting us out of here by about 11:45, 11:50, is to 25 try to allow 30 minutes of public comment, up to	2	1 then Representative Bishop will be going paragraph 2 by paragraph, so that we completely understand it. 3 This is a common sense bill that ensures the status 4 quo ante. That is -- what do I mean by that? If 5 you pass the bill, really, nothing is changed from 6 yesterday until tomorrow, but it prohibits other 7 deleterious changes in the future. It protects 8 privacy. It also clarifies what units of local 9 government can do on a couple of disputed issues. 10 I would contend that it is not changing that, it's 11 just clarifying and making clear -- that is, making 12 clear what local -- what units of local government 13 can do and not do. 14 The reason this is important, is that we 15 need -- for economic development, we need a good 16 intrastate common market. We have 100 counties, we 17 have 500-plus cities, and businesses that want to 18 grow and expand. It's not a good idea for them to 19 have to have different employment rules in 20 different places where they do business. 21 Obviously, infrastructure will be different, zoning 22 will be different, the fees will be different, the 23 taxes will be different, but they shouldn't have to 24 guess or to comply with rules made by one city that 25 apply to everybody who's going to contract with	4
1 two minutes per speaker. If we don't need that 2 much time, fine. If we need more time because of 3 anticipated amendments, I may have to cut back on 4 that, but we'll go as far on the list as we can. 5 My intention is that we will begin by having the 6 sponsors present the bill. They'll then -- we'll 7 have discussion by the committee. We'll then take 8 public comments. And then we will come back and 9 have such amendments and votes as the committee 10 needs, with the idea, again, of being finished by 11 11:45. So, with your cooperation, hopefully we can 12 stick to that schedule. 13 Okay. The Chair recognizes 14 Representative Bishop to present the bill. 15 Representative Bishop, you want to come to the 16 podium? And while Representative Bishop is coming 17 up, I'll say -- I'll try to remind you, but when we 18 get to the public comments time, please identify 19 yourself and any organization or agency that you 20 may be associated with. Okay. And we welcome 21 Representative Stam, and -- and we'll let them 22 present this in such order as they may choose. 23 REP. STAM: Mr. Chair -- Mr. Chairman, 24 members of the committee, I'd like to give you an 25 overview -- an overview for about two minutes, and	3	1 that city, even if their -- even if their other 2 place of business is in, say, Wake County. 3 So, for example, if Catawba County were 4 to issue certain rules on employment practices for 5 their bidders, and I wanted to bid on that from 6 Wake County, Catawba County should not be able to 7 tell my business in Wake County what to do. We 8 need to put a stop to that. This is important at the 9 intrastate level. It's important at the 10 interstate level, and even in world trade, but 11 especially intrastate and interstate. I'd like to 12 ask the Chair to recognize Representative Bishop, 13 who will go through it paragraph by paragraph. 14 REP. BLACKWELL: Representative Bishop, 15 you're recognized. 16 REP. BISHOP: Thank you, Mr. Chairman. I 17 hail from Charlotte, and -- and as Representative 18 Stam said today, I think what we're doing is 19 preserving sense of privacy that people have long 20 expected in private facilities. And we are 21 restoring and clarifying -- clarifying the existing 22 authority and limits of authority of local 23 governments. The recitals at the beginning of the 24 bill say that. They point out that the power of 25 localities in North Carolina comes from delegation	5

1 by the General Assembly. 2 And in the case of the Charlotte 3 ordinance passed in February, there was exercised a 4 power that's never been delegated to the City of 5 Charlotte, or to any locality, except for a few in 6 their charters. But not Charlotte. So Article 7 VII, Section 1 of the North Carolina Constitution 8 sets forth that law. That's our fundamental law of 9 this state. 10 Immediately below that, Representative 11 Stam made the point that consistent business 12 regulation statewide is critical for -- for the 13 success of business, and to make the kind of 14 business environment that we need for the people of 15 North Carolina to prosper. 16 Article II, Section 24 says that the 17 General Assembly cannot make local acts on 18 business. That is to say, labor, trade, mining, or 19 manufacturing. The Constitution specifically sets 20 that forth in order that we not have a balkanized 21 or patchwork system of business law, varying from 22 place to place within the state. The other 23 recitals are consistent with that. And now I'll 24 proceed to the operative parts of the bill. 25 The bill is in three parts. The first	6	1 The -- the Section 1 includes specific 2 accommodations that are allowed for various 3 circumstances. It permits local boards of 4 education to maintain single occupancy bathroom or 5 changing facilities that students can use. It also 6 has exceptions in Subpart -- in Subparagraph -- 7 Subsection (d) listed for custodial purposes; for 8 maintenance of, or inspection purposes; to render 9 medical assistance; to accompany students needing 10 assistance or -- or a student needing to receive 11 assistance. 12 And -- and also the last one, Section -- 13 Subsection (7) there, says, that has been 14 temporarily designated for use by that person's 15 biological sex. It is often the practice in 16 athletic events in particular, where a team travels 17 to the opposite school, that a locker room of the 18 other gender than the sports team will be 19 temporarily designated for their use during that 20 event. So that's covered as well. 21 Section 1.3 of the bill, the second 22 provision on bathroom policy, and it provides that 23 in other public facilities; so facilities operated 24 by state agencies, by localities and also other 25 types of bathrooms operated by local school boards,	8
1 part establishes in two sections that in public 2 facilities in North Carolina, the policy will be 3 that bathrooms will be designated according to 4 biological sex, and usage of them will be according 5 to biological sex. That's the law of North 6 Carolina already. The North Carolina building code 7 specifies the number of facilities, and that 8 they'll be designated according to biological sex. 9 This clarifies it. 10 So in the two sections -- the first is 11 that in K-12 public education facilities, bathrooms 12 for students will be bathrooms and -- and their -- 13 bathrooms and changing facilities; the terminology 14 you see -- single-sex, multiple occupancy bathroom 15 and changing facilities and also -- so you have 16 multiple and single occupancy, obviously. If it's 17 a multiple-occupancy facility, then they'll be 18 designated and used according to biological sex. 19 Biological sex is to be designated on the birth 20 certificate. And for those that may not know, 21 North Carolina already has in statute a provision 22 that if someone has sex reassignment surgery, then 23 they can amend their birth certificate so that it 24 is the -- so that it has the other gender. And so 25 this is consistent with that.	7	1 the same policy will exist, and the same similar 2 exceptions apply. Notice there is no mandate on 3 private business in this law. Businesses are free 4 to regulate their own facilities as they see fit, 5 and we believe that's consistent with a good, 6 favorable business environment and appropriate 7 freedom of choice. 8 Now, Part 2. Part 2 and Part 3 are the 9 portions that, as we introduced the bill, I 10 mentioned relate to clarifying what authority 11 exists for localities in certain areas. Part 2 has 12 three sections. Section 2.1 clarifies that local 13 governments lack authority, or "preempted" is the 14 term in law, to adopt regulation of wages. 15 Now, the reason that that is in this 16 bill, is because of the two sections that follow 17 that, Sections 2.2 and 2.3. These sections provide 18 that if a local government, county, or city, 19 engages a contractor, it is not able to impose 20 regulations or controls on that contractor's 21 employment practices, or mandate or prohibit how it 22 will provide goods, services, or accommodations to 23 any member of the public. These were the 24 provisions previously modified in 2013, when a city 25 overstepped its authority and used its contracting	9

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1        policy to impose a minimum living wage, as the 2        terminology went, on -- on its contracting parties. 3        We've now made clear, instead of here, because what 4        we said there is, they're disabled from regulating 5        the employment practices generally of contracting 6        parties or their -- their way of selling services 7        or goods. Therefore, we've moved more generally, 8        and clarified something, again, that is not new 9        law. It's a clarification. 10      The Wage and Hour Act of North Carolina 11     is a complete and integrated legislative scheme 12     regulating wages and labor conditions. And we -- 13     so, we've -- to make it abundantly clear that local 14     governments are disabled from this area, we've made 15     an explicit statement of preemption of the field. 16      That takes us to the third part, which is 17     titled Protection of Rights in Employment and 18     Public Accommodations. North Carolina has had, 19     since 1976, in Article -- in Chapter 143, a 20     statement of public policy against employment 21     discrimination on the basis of race, religion, 22     color, national origin, and sex. For the first 23     time, we are enacting -- proposing to enact a 24     statewide statement of public policy against 25     discrimination in public accommodations, on those	1        themselves of appropriate remedies. 2        So as we're -- as we're enacting, for the 3        first time in North Carolina, a statewide statement 4        of public accommodations nondiscrimination, we've 5        left handicapped to be covered completely and 6        comprehensively by the existing Chapter 168A. And 7        we've used, for consistency, the definition of 8        public accommodations in 168A to inform the 9        nondiscrimination policy that we are enacting here. 10      And we cover all of the -- of the -- what the 11     Supreme Court has termed suspect and quasi-suspect 12     classifications in this new comprehensive statement 13     opposed to discrimination in public accommodations. 14      In both of those statements of public 15     policy, we have also made -- we have also now 16     articulated clear statements of legislative intent, 17     that localities are preempted from acting in these 18     areas. But I want to emphasize to you all again, 19     that no one can point to a statute that has ever 20     explicitly delegated authority to cities and 21     counties to do that. And, in fact, if you read the 22     Williams versus Blue Cross and Blue Shield case 23     from 2003, the courts have already been active in 24     striking down exactly that sort of regulation. 25      Where there was a comprehensive employment
11	13

<p>1 let me do a couple of other housekeeping things. 2 One is, I had a question that, for members of the 3 committee, you do not have to offer amendments to 4 the bill in committee in order for them to be 5 considered on the floor. You can, under the rules 6 that were just adopted earlier in session, 7 amendments can be offered on the floor for the 8 first time. So you can take that into 9 consideration in deciding if you have something you 10 want to offer.</p> <p>11 Also, I should point out to the committee 12 members and the public that are present, that we 13 have four House Sergeant-At-Arms that are around 14 the chambers that may be able to help you if you 15 have a concern. Young -- Young Bay is over here, 16 Jim Moran in the back by the door, Doug Harris is 17 back here, and Joe Crook is over by this door. So 18 we appreciate that.</p> <p>19 One other thing is, because we were about 20 15 minutes late in getting started because of the 21 availability of the bill and the explanation for 22 the bill, we've gotten permission to extend that 23 time by which we take the vote from 11:45 to 12:00. 24 We may not need that, but I'm going to do that in 25 my discretion, so that hopefully we won't have to</p>	<p>14</p> <p>1 why don't we give you the lesser of the times you 2 requested, and we'll be at ease for five minutes to 3 give members of the committee that haven't seen 4 this before a chance to look at it.</p> <p>5 REP. RICHARDSON: Thank you, Mr. 6 Chairman. 7 (Members at ease.) 8 REP. BLACKWELL: The committee will be 9 back in order. Are there further questions from 10 members of the committee? Representative Warren, I 11 think I saw earlier that you had your hand up?</p> <p>12 REP. WARREN: Thank you, Mr. Chair. I'd 13 just like to be recognized. It's an appropriate 14 time to make a motion.</p> <p>15 REP. BLACKWELL: All right. Any other 16 questions from members of the committee at this 17 point? Seeing none, we will go to public comment. 18 The first public comment, if you'll go to the 19 speaker in the back, and use the mic, and identify 20 yourself, and if you are with an agency or 21 organization, on whose behalf you are speaking, if 22 you'd let us know that. And our first speaker is 23 Chris Sgro. If it's -- I hope I didn't -- is that 24 okay? Two minutes, each, please. 25 MR. SGRO: Good morning. My name is</p>
<p>1 cut short public comment. 2 With that being said, are there questions 3 from the committee for Representative Bishop, or -- 4 is Representative -- I don't know if Representative 5 Stam is still here. I don't know if the other 6 sponsors are present, if they want to come up, 7 Representative Howard or Steinberg, if they're in 8 the room, but are there questions from the 9 committee? Representative Richardson. 10 REP. RICHARDSON: Thank you, Mr. 11 Chairman. I don't necessarily -- well, I have a 12 question in the sense of, we just got this bill 13 just before the explanation started. There are a 14 lot of statutes that are listed in this bill, and I 15 think it's very unfair to the committee to ask us 16 to make an informed decision on this bill that 17 seems to impact some things that we're not aware 18 of. Is it a -- a possibility that we could be 19 given at least five to ten minutes to read this for 20 ourselves, from front to back? Because right now, 21 listening to him and trying to read along with all 22 these statutes, I'm not sure of what is really in 23 this bill. 24 REP. BLACKWELL: Representative 25 Richardson, if you think five minutes would do it,</p>	<p>15</p> <p>1 Chris Sgro. I'm the Executive Director of Equality 2 North Carolina, the statewide LGBT advocacy 3 organization, representing over 170,000 members, 4 and we have many of our allies here with us today. 5 What Charlotte did is not unique or extreme. Their 6 democratically-elected City Council overwhelmingly 7 passed a protection ordinance for LGBT people. Two 8 hundred-plus cities across the nation, have these 9 protections already, including Myrtle Beach and 10 Columbia, South Carolina. We're talking about 11 other similar cities, not just New York or San 12 Francisco. 13 There have not been public safety 14 concerns in any of those cities for the decades 15 that these ordinances have been in place. That is 16 a fact, and facts matter. What is extreme, is this 17 special session. The first since 1981, wasting 18 42,000 taxpayer dollars a day, more than a North 19 Carolina educator's yearly salary, is what you are 20 doing here. 21 This ordinance is a best practice. What 22 this NCGA stands to do is a worst practice. 23 Republicans in Tennessee and South Dakota have 24 killed less sweeping bills because of concerns that 25 we have not had time to evaluate in the five</p>

<p>1        minutes that we just gave folks, to digest this 2        lengthy legislation. This would be the most 3        sweeping anti-LGBT bill in the nation. We cannot 4        allow state policy to be crafted, or passed, for 5        political gain or out of factless fear.</p> <p>6        My community deserves to be protected. 7        Yes, in restrooms, and in restaurants, and in 8        hotels, and in ability to hail a taxi. Those are 9        common sense protections. This session is not 10       common sense. The eyes of North Carolina, our 11       business community, my trans and gay brothers and 12       sisters, and the nation, are focused on you here 13       today. Please reject fear. My community's safety 14       and facts must trump the perceived politics of 15       this. Vote against.</p> <p>16       REP. BLACKWELL: Thank you, Mr. Sgro. 17       The next speaker is Chloe Jefferson, if I'm getting 18       that name correctly. Ms. Jefferson.</p> <p>19       MS. JEFFERSON: Hi. My name is Chloe, 20       and I'm in my junior year at Greenville Christian 21       Academy. When the Charlotte City Council passed 22       their bathroom ordinance, I was immediately 23       fearful. I was fearful because, if Charlotte can 24       do something like this, what city will be next, my 25       own? Changing in front of my girl peers is already</p>	<p>18</p> <p>1        no limitation, is completely frightening. 2        Charlotte's bathroom ordinance allows men complete 3        access to private places reserved for women. With 4        this access, there's no stopping what people may 5        do. How can my parents possibly send me into a 6        bathroom -- public bathroom, knowing that a man 7        could possibly be waiting for me. This ordinance 8        will be used as a way to have access to unarmed 9        girls in what should be a private setting.</p> <p>10       Charlotte is only the first city, and if 11       Governor McCrory and the General Assembly do not 12       fix what Charlotte has done, I think others will 13       follow. I am not the only girl scared, if 14       Charlotte's ordinance is not changed. Everyone 15       should be aware that it would be girls like me who 16       are affected by ordinances like Charlotte and we 17       deserve protection. Thank you.</p> <p>18       REP. BLACKWELL: Thank you. The next 19       speaker on our list is Sarah Preston.</p> <p>20       MS. PRESTON: Good morning. My name is 21       Sarah Preston. I'm the acting Executive Director 22       for the ACLU of North Carolina. As an organization 23       that cares deeply about ensuring equality for all 24       North Carolinians, including lesbian, gay, bisexual 25       and transgender individuals, we are very concerned</p>
<p>1        intimidating enough. The teen years are especially 2        difficult with different body image perceptions 3        being pushed on us through social media, magazines, 4        and Hollywood. We start to believe that there's a 5        certain way to look, and to not look. Now we add 6        the possibility of males changing and showering 7        alongside me. This is something that makes me, and 8        I'm sure other girls, even more self-conscious. 9        Girls like me should never be forced to undress or 10       shower in the presence of boys. I would imagine 11       being born a boy but thinking you're a girl is very 12       scary and confusing. But being a teenage girl is 13       confusing, too.</p> <p>14       What about my rights to privacy and 15       wishes to not be exposed to young males changing 16       and showering beside me? I think everyone has the 17       freedom to believe in what they want, but they 18       shouldn't change laws for a small number of 19       students that punish and single out the rest of us. 20       That wouldn't be fair.</p> <p>21       Not only is this bathroom ordinance a 22       problem for my privacy, but also a problem for my 23       safety. I would no longer feel safe using the 24       bathroom in public places. Knowing that a man 25       could easily walk into the women's bathroom, with</p>	<p>19</p> <p>1        about this legislation. We all understand that 2        this proposal came about because of an ordinance 3        passed by Charlotte. This ordinance was not 4        complicated. It is a simple measure designed to 5        protect all individuals in public accommodations, 6        including restaurants, bathrooms, hotels, 7        transportation, and even accessing government 8        services.</p> <p>9        I know that many people probably do not 10       understand what it means to be transgender, or 11       identify with a sex other than the one that was 12       assigned at birth, and that's okay. But the 13       reality is that a transgender woman is a woman, and 14       a transgender man is a man, living his life just 15       like any other man, and he should be able to access 16       the men's restroom. These men and women should be 17       able to expect fair and equal treatment from their 18       governments, and in public accommodations. 19       Instead, half of the transgender individuals 20       surveyed in North Carolina recently reported being 21       harassed in public accommodations, and eight 22       percent reported being assaulted. We are here 23       today thinking about adding to that harassment, 24       encouraging those assaults and violence, and we 25       should do better for this community.</p>

1        If this body truly wants to consider a 2        nondiscrimination ordinance, they must include 3        gender identity and sexual orientation. It is 4        important that we protect all of the vulnerable 5        communities in our state and not pick and choose 6        which we want to provide full accommodations to. 7        Thank you.  8        REP. BLACKWELL: Our next speaker is, if 9        I'm -- again, Eleana Smith.  10      MS. FEDORUK: Good morning, Mr. Chairman, 11      members of the committee. I'm Kelly Fedoruk, and 12      I'm here to read the statement from Eliana Smith, 13      because she's unable to come here today. She's in 14      Charlotte, and asked that I read her statement to 15      all of you this morning. "I'm Eliana Smith, and 16      I've lived here in Charlotte for eight years. I 17      write to you today because I truly believe this 18      Charlotte ordinance creates dangerous and 19      vulnerable situations for women, children, and men. 20      I'm going to share something today that I never 21      thought I would share publicly, but I feel is 22      really necessary due to the direction that our city 23      is going in.  24      I was sexually assaulted as a young girl, 25      and in the years that followed, I had a real fear	22	1        and changing at the Y, where there very well could 2        be a man in that room.  3        In passing this ordinance, the City 4        Council ignored its obligation to protect all 5        citizens of Charlotte, and demonstrated that they 6        really don't care about my concerns. Instead, the 7        City Council values and chose its political agenda 8        over safety, privacy, and common sense."  9        Mr. Chairman, I see I'm out of time. May 10      I have a couple seconds to finish her statement? 11      Keep it short? Thank you.  12      "My concerns and my fears are real, and 13      it's not right for anyone to discount them or for 14      anyone to call me a bigot and a fearmonger, because 15      I want to keep my family safe. As a victim of 16      sexual abuse, it is very difficult to speak up or 17      defend yourself. There's this fear, especially as 18      a young girl, that if you speak up, you or your 19      family will pay somehow. The same fear returns in 20      a different way and I ask you all today to pass 21      this bill, and I urge Governor McCrory to sign this 22      and protect all citizens of this great state."  23      Thank you.  24      REP. BLACKWELL: Our next speaker, and 25      let -- let me say, before -- I appreciate	24
1        of men hurting me. This fear followed me for a 2        long time. I actually remember when I was 3        searching for colleges, and the thought of co-ed 4        dorms making me incredibly nervous. I specifically 5        picked a school where I knew girls would all be on 6        the same floor, because I wanted to make sure my 7        privacy, as a woman, was protected. Thankfully, I 8        found healing and peace from the terrible pain that 9        I experienced, and I did come to realize that I 10      could be safe again.  11      In recent weeks, the thought of what I 12      experienced has come back to my mind as I watched 13      the Charlotte City Council vote to allow biological 14      males into women's bathrooms, locker rooms, and 15      showers. I have serious concerns and anxiety that 16      I may encounter a man in the bathroom. But more 17      than the pain and nervousness I feel, because of 18      what has happened to me in my life, I fear even 19      more for my children. I have four young children, 20      and I never want any of them to go through the 21      pain, the humiliation, and the trauma I suffered 22      for years. How will I be able to go into the 23      bathroom, knowing that at any moment a man, or 24      someone pretending to be a woman, could walk in? I 25      won't have peace about my little girls showering	23	1        everybody's decorum, but at various points, before 2        we get through, please remember that we don't have 3        clapping or demonstrations of support, pro or con, 4        and you all are doing great, making my job easy, 5        but thought I would remind you of that. The next 6        speaker is Angela Bridgeman.  7        MS. BRIDGEMAN: Good morning. My name is 8        Angela Bridgeman. I'm here representing my own 9        self, a transgender person, and a respected member 10      of the North Carolina business community, who moved 11      a successful business to this state from the State 12      of Pennsylvania.  13      I bring money from out of the state into 14      the state, and I am asked to pay taxes to finance 15      the discrimination which I face every day as a 16      transgender person. Now, I am post-operative. My 17      birth certificate says female, my license says 18      female, this is not going to affect me. But that's 19      not what I'm here to talk about today.  20      What I'm here to talk about today, is in 21      1998, I was denied a college education because I am 22      a transgender person. Five days after Matthew 23      Shepard was killed in Wyoming, I was told by my 24      then-college, Sullivan College [sic] in Louisville, 25      Kentucky, that I would only be allowed to use male	25

<p>1       restrooms. What would you all do? I did the only 2       thing I could. I chose my safety. At five days 3       after Matt Shepard is killed, I'm told that I have 4       to put myself in a position where I'm probably 5       going to be beat up, or worse. I dropped out of 6       college, and I never went back. I was denied a 7       college education just because I'm transgender. 8       I don't mean to be insensitive to some 9       people that maybe have suffered sexual assaults and 10      are fearful, but I have a right to be safe, too. I 11      have a right to be safe, too, and I have a right to 12      get a college education, which was denied to me. I 13      have a right. And the bore for the point -- this 14      isn't going to affect me now, because I am in every 15      way legally female. But nobody else should have to 16      go through what I did. Nobody should have to make 17      the kind of choice I had to make. Thank you. 18       REP. BLACKWELL: Our next speaker is John 19       Amanchukwu. 20       MR. AMANCHUKWU: I'm John Amanchukwu, 21       Executive Director for the Upper Room Christian 22       Academy. When there's no such thing as right or 23       wrong, man is left with flawed ideologies and 24       philosophies. When virtues are smothered through 25       party platforms, man becomes confident in</p>	<p>26</p> <p>1       female bathroom via your anatomy, neither should we 2       give you access via ordinance or legislation. 3       According to the American Psychiatric Association, 4       as many as 98 percent of gender-confused boys and 5       88 percent of gender-confused girls eventually 6       accept their biological sex, after naturally 7       passing through puberty. 8       In my closing, allowing men to use 9       women's bathrooms, showers, and locker rooms puts 10      both women and children in situations of grave 11      danger. Evidence shows that bathrooms are one of 12      the most prevalent places in which sexual assault 13      and rape take place. This ordinance is a passive 14      form of child abuse. So we ask the General 15      Assembly to send a clear message today to any other 16      municipality that this kind of government overreach 17      will not be tolerated. 18       REP. BLACKWELL: Our next speaker will be 19       Madeline L. Goss. 20       MS. GOSS: Thank you. My name is 21       Madeline Goss, and I'm transgender. I'm a mother, 22       and a partner, and I'm a software engineer here in 23       Research Triangle Park. I grew up in Hickory, 24       North Carolina, and I loved Hickory. But I was 25       bullied and tortured mercilessly there. And where</p>
<p>27</p> <p>1       legalizing anarchy. This ordinance is the corrupt 2       fruit of treason. It is an inside job from the 3       hearts of traitors. 4       Marcus Cicero said, a nation can survive 5       its fools and even the ambitious, but it cannot 6       survive treason from within. An enemy at the gates 7       is less formidable where he is known and carries 8       his banner openly. But the traitor moves amongst 9       those within the gate freely, his sly whispers 10      rustling through all the alleys, heard in the very 11      halls of government itself. He rots the soul of a 12      nation. 13       How do you spell traitor? How do you 14       spell treason? Today you spell it R-O-Y 15       C-O-O-P-E-R. Once again, our Attorney General is 16       failing to stand up for the people of this great 17       state. So today, we reject and push back against 18       neutrality for the voices of thousands of boys and 19       girls in our public or private schools, and the 20       countless teachers and administrators. 21       It's common sense that boys should go to 22       the boys room, and girls should go to the girls 23       room. I believe that God got it right in Genesis 5 24       and 2, when He said that He created them male and 25       female. If God didn't give you access to a male or</p>	<p>29</p> <p>1       did it happen? It happened in the men's room. 2       This place is a place of danger for me. And what 3       this bill would do is send me back there. I left 4       Hickory for places that are safe, like Charlotte 5       and Raleigh. I now live in Raleigh, and I am happy 6       there. I'm happy with my partner and I'm happy 7       with my nine-year-old daughter, Sophia. 8       I can't use the men's room. I won't go 9       back to the men's room. It is unsafe for me there. 10      People like me die there every day. Not -- not the 11      least to say, it freaks people out when I go to the 12      men's room. Would you like to go to the men's room 13      with me? I don't think so. The point is this. 14      These LGBT protections are common sense 15      protections. They make places like Raleigh and 16      Charlotte safe and welcome for people like me. 17      They're not new, they're not unique, and they're 18      not radical. 19       This -- they've already been passed in 20      over 200 cities in the United States. People 21      aren't getting thrown in jail. People aren't 22      getting raped and murdered. People are just going 23      to the bathroom. That's all I'm asking, is a safe 24      place for me, and people like me, to go to the 25      bathroom. Please, vote no on this bill.</p>

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<p style="text-align: right;">30</p> <p>1 REP. BLACKWELL: Our next speaker is 2 Tammy Fitzgerald. 3 MS. FITZGERALD: Good afternoon, members 4 of the committee. Charlotte's bathroom ordinance 5 is unconstitutional. And this is the first domino. 6 Other cities will follow if we don't stop what 7 happened in Charlotte. Under North Carolina's 8 Constitution, cities only have those powers 9 explicitly delegated to them by the state. 10 Charlotte exceeded its delegated powers by passing 11 an ordinance that jeopardizes both the health and 12 the safety of its citizens. 13 It creates laws that are not uniform 14 across the state, making it harder to do business 15 in Charlotte than other parts of the state. This 16 hurts business. It violates the right to earn a 17 livelihood free of government interference, because 18 of the business regulations it imposes. The 19 Charlotte ordinance unfairly allows the government 20 to overreach into the private businesses and 21 churches, by forcing them to provide service, 22 promote ideas, participate in events, that conflict 23 with their beliefs. This violates the First 24 Amendment, as well as our own state constitution. 25 If the General Assembly does not stand firm, a</p>	<p style="text-align: right;">32</p> <p>1 state think the ordinance should be overturned, and 2 so we are looking to your leadership. Thank you so 3 much for your time. 4 REP. BLACKWELL: Our next speaker is 5 Tracy Hollister. 6 MS. HOLLISTER: Hello. My name is Tracy 7 Hollister, and I'm with several organizations 8 today, proudly: Equality North Carolina, ACLU of 9 North Carolina, and the Human Rights Campaign. And 10 I'm here specifically to talk about Provision 1, 11 and to take a stand for my transgender brothers and 12 sisters. 13 Paul Stam earlier talked about 14 consistency in this bill, consistency across the 15 state, but I want to argue to you that this bill is 16 inherently inconsistent. What is it inconsistent 17 with? North Carolina values and common sense. 18 Treating people with respect, as we'd want to be 19 treated. Respecting local democratic processes. 20 And being champions of safety and protection. 21 We hear, on the one hand, fears of what 22 happens when transgender people go to restrooms. 23 And we hear, on the other hand, a mountain of 24 evidence of how dangerous it is, and how unsafe 25 transgender people feel. I want to ask the</p>
<p style="text-align: right;">31</p> <p>1 precedent will be set for municipalities to usurp 2 power on any number of issues. 3 Now, because Roy Cooper has failed to do 4 his job, we are looking to you and the Governor to 5 call this law unjust, and to overturn it. The 6 Charlotte bathroom ordinance was heavily promoted 7 by a convicted sex offender, and we've said quite a 8 bit about that. But there are -- this has actually 9 happened in states where these laws are already in 10 place. Sex offenders are using these laws to their 11 advantage. 12 In 2011, transvestite Thomas Lee Benson, 13 a convicted sex offender for having sexual contact 14 with a minor girl, dressed as a woman so he could 15 go into the women's locker room at a swimming pool 16 in Oregon. There were young girls present in the 17 locker room, changing into their swimsuits, while 18 Benson was inside. Previously, he had dressed as a 19 woman to enter another locker room in Portland, 20 Oregon. Young girls were changing into their 21 swimsuits in that dressing room, too. 22 We have presented over 35,000 petitions 23 to you, and to the City of Charlotte, to stop this 24 ordinance, and we would appreciate your action 25 today. Sixty-six percent of the people in this</p>	<p style="text-align: right;">33</p> <p>1 legislators here today, by show of hands, how many 2 of you personally know a transgender person? 3 REP. BLACKWELL: We can't allow a show of 4 hands on that, but you can continue with your 5 remarks, please. 6 MS. HOLLISTER: I would submit to you, 7 that if you do not know a transgender person 8 personally in your life; if you have not heard 9 their story, like you've heard Maddy's story, and 10 other stories; that you need to do your homework, 11 and be transparent about what you understand and 12 don't understand. 13 Fortunately, Bobbie Richardson gave us 14 five minutes. We need far more than five minutes 15 to talk about a bill like this. And this is not an 16 emergency. Nothing really bad is going to happen 17 when people who feel like they are -- like -- 18 people who are women go to women's restrooms, and 19 people who are men go to men's restrooms. I have a 20 cousin who is transgender. He writes that he came 21 out at age 19. He asked me to share this with you, 22 after experiencing gender dysphoria for years. And 23 when he came out, he had a fear of public 24 bathrooms. A lot of transgender people avoid 25 bathrooms. The last thing they want to do in a</p>

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1       bathroom is to create any trouble. They just want 2       to relieve themselves, like he would like to 3       relieve me right now.  4       REP. BLACKWELL: Thank you. I want to 5       remind you to state your name as you start, and if 6       you are with an agency, business or a group, if 7       you'll identify the group that you may be 8       representing. The next speaker is John Rustin.  9       MR. RUSTIN: Thank you, Mr. Chairman, 10      Members of the Committee. I'm John Rustin, 11      President of the North Carolina Family Policy 12      Council. As you've heard, on February 22nd, the 13      Charlotte City Council approved a set of highly 14      controversial and hazardous ordinance changes, and 15      we have three primary concerns.  16      First, these changes mean that men can 17      enter women's restrooms, shower rooms, bathhouses 18      and similar facilities in any public accommodation 19      in the City of Charlotte, placing the privacy, 20      safety, and dignity of women, children, the 21      elderly, and others at great risk. The City's 22      extremely broad definition of public accommodation 23      means this new ordinance would apply to essentially 24      any business or organization in the City that 25      provides any goods or services. And please keep in	34	1       authority to do what Charlotte has done. If these 2       ordinance changes are allowed to stand, they will 3       serve as a precedent for other city and county 4       governments to undermine proper governmental 5       authority in North Carolina, and to create a 6       patchwork of disparate ordinances across the state.  7       For these reasons, we applaud you for 8       considering the legislation that you are today, and 9       we ask that you support it. Thank you.  10      REP. BLACKWELL: We have now consumed 11      about 25 to 26 minutes of the allotted public 12      comment time, so we're going to take two more 13      speakers from -- one from each side. The next 14      speaker will be Vivian Taylor.  15      MS. TAYLOR: Hello. My name is Vivian 16      Taylor. I am here today representing the 17      organization, Believe Out Loud. It's a Christian 18      organization. But I'm also here representing 19      myself. I am an eleventh-generation North 20      Carolinian. My family has been here since our 21      ancestor Kinchin Pennington was given a piece of 22      land as a payment for his service in the 23      Revolution. I graduated from North Carolina public 24      schools. I served in the War in Iraq with the 25      North Carolina National Guard. I'm a transgender	36
1       my mind, there is no exception. There is no 2       exception for churches, church schools, and 3       church-related ministries.  4       Secondly, many citizens have sincere 5       religious beliefs that inform the way they live 6       their lives and operate their businesses. Similar 7       ordinances in other states have been used to force 8       small business owners, such as florists, bakers, 9       photographers, bed and breakfast owners, and 10      others, to either conform to a government-dictated 11      viewpoint in violation of those sincerely-held 12      religious beliefs, or to face legal challenges, 13      fines, and other penalties that have ultimately 14      caused some to go out of business. The City of 15      Charlotte should not be authorized to impose such 16      an unconstitutional mandate as a condition of doing 17      business.  18      And thirdly, Charlotte far exceeded its 19      authority when it passed these ordinance changes. 20      Cities and counties in North Carolina derive the 21      full extent of their authority only from the state 22      Constitution and acts that are passed by this 23      General Assembly. The North Carolina General 24      Assembly has granted neither the City of Charlotte, 25      nor any other city or county in the state, the	35	1       woman.  2       These protections that Charlotte passed 3       are common sense. Transgender folks face 4       incredible amounts of violence, and these 5       protections just do the basic moral job of looking 6       out for people and keeping them safe. You can look 7       at all the other cities that have passed similar 8       protections, and you can see there have not been 9       issues. There has not been violence. We are North 10      Carolina, we are one of the greatest states -- we 11      are the greatest state in this union, and we can do 12      better than -- than giving into fears. We can 13      protect everyone. I love this state, and I -- and 14      because of that, I call on you to reject this bill. 15      Thank you very much.  16      REP. BLACKWELL: Our next and final 17      speaker is Heather Garofalo, I believe.  18      MS. GAROFALO: Good afternoon. My name 19      is Heather Garofalo. I'm a small business owner 20      servicing Charlotte. I'm a mom of three children. 21      I have many friends and family in the LGBT 22      community, and I love them. Every American private 23      business owner in North Carolina should be free to 24      live and work according to their views, without 25      fear of being punished, unjustly, by the	37

1       government. In 2015 the Pew Charitable Trust 2       organization identified the top 10 states for job 3       growth. Eight out of 10 of these states do not 4       contain state nondiscrimination ordinances with 5       language of sexual orientation and gender identity.  6       Charlotte is a beautiful city because of 7       its diversity. There are many different world 8       views and world religions. There is strength in 9       diversity. True equality means everyone is free to 10      speak their piece, without fear of being silenced 11      and punished. I'm pleased to report today, that 12      not one single case has been filed by the ACLU 13      alleging that an individual or organization has 14      discriminated against our friends in the LGBT 15      community here in Charlotte.  16      As a business owner, I fear the 17      unintended consequences of this ordinance, the 18      negative impact on labor, trade and commerce, as I 19      service many cities in the state. There would be 20      inconsistency, lack of uniformity. For small and 21      large business owners like myself, we would be 22      forced to check our deepest-held beliefs at the 23      door, or suffer fines of \$500, jail time, lawsuits. 24      I am asking for a right to provide for my family.  25      Also, business owners across the state	38	1       If I may, I have a -- several questions. I have a 2       series of questions, if -- if I can just get 3       started.  4       REP. BLACKWELL: To whom do you want -- 5       do want to address these, or are these rhetorical?  6       REP. HAMILTON: No, they're -- I would 7       like some answers to them.  8       REP. BLACKWELL: Representative Stam and 9       Representative Bishop, you all want to step up to 10      the podium, and we'll let you handle these?  11      REP. HAMILTON: Thank you, gentlemen. 12      Thank you, Mr. Chairman. And it may involve staff 13      as well. Okay. My first question is related to 14      the change in the third section, from just a simple 15      reference to sex, changing it as biological sex. 16      The question is, if a -- if a gender-change 17      operation has taken place, the new sex -- say 18      you've -- a female has -- has had a sex-change 19      operation to become a male. Is that considered his 20      biological sex?  21      REP. BISHOP: It is according to the 22      definition in the statute. It says biological sex 23      is sex according to the birth certificate.  24      REP. HAMILTON: According to the birth 25      certificate.	40
1       will be forced to cancel their contracts. The city 2       will cancel contracts in just nine days. Cancelled 3       contracts means a loss of revenue. A loss of 4       revenue could mean tens of thousands of jobs laid 5       off in North Carolina. This could mean -- this 6       could mean trouble, financially, for many families 7       in this 2016 election year.  8       I am equally concerned as a mom of three, 9       that this ordinance violates the safety and privacy 10      of every child in North Carolina. I am not fearful 11      of my transgender friends. I am fearful of all the 12      sexual offenders that are here. If you put a sweet 13      transgender child, and you move them from one 14      restroom to the next, that's not going to take care 15      of their fears and concerns and desire to be 16      accepted. That's actually going to subject them to 17      being -- oops, sorry.  18      REP. BLACKWELL: Okay. Thank you for all 19      the comments. I now will go back to the committee. 20      Are there further comments or questions from 21      members of the committee? Representative Hamilton. 22      Are there members of the committee that have 23      questions or wish to speak on the bill? 24      Representative Hamilton.  25      REP. HAMILTON: Thank you, Mr. Chairman.	39	1       REP. BISHOP: And they can have the birth 2       certificate changed.  3       REP. HAMILTON: And their birth 4       certificates can be changed.  5       REP. BISHOP: That's correct.  6       REP. HAMILTON: Thank you. My -- my 7       second question is really related to the contract 8       portions of the bill, Sections 2 and 3. I -- the 9       focus has been, from the media standpoint and from 10      the public standpoint, just on the bathrooms, as it 11      relates to the Charlotte ordinance. But what 12      concerns me about this bill is that we have -- we 13      have expanded the conversation, and now we are 14      delving into the cities' and counties' ability to 15      contract with private vendors. So my first 16      question is, how will minority, women, and 17      business-owned entities be impacted by the changes 18      in this statute, or will they be affected in any 19      way?  20      REP. STAM: May I, Mr. Chairman? 21      REP. BLACKWELL: Yes.  22      REP. STAM: I think there are three parts 23      to that. I -- it I -- I would not agree with your 24      premise that it affects their ability to contract; 25      they certainly can contract. What your question	41

1        goes to is, frankly, one of the more egregious 2        aspects of the overreach that -- that is involved 3        here, which is this -- in this -- in a particular 4        locality, this -- that has imposed -- purported to 5        impose employment or -- or selling practices on a 6        business with whom they -- they will contract, 7        whoever's going to bid for their jobs, they reach 8        well beyond the limits of their city to impose 9        this -- whatever their notions are, on folks across 10       the state, and even out of the state. So it 11       illustrates one way in which is particularly 12       problematic.  13       However, to the other point that you've 14       asked, or to the rest of it, if you will look in 15       Chapter 143 -- and I'd get you a reference, but 16       there are already -- there already is a -- a 17       comprehensive set of rules concerning 18       nondiscrimination in contracting on -- on the -- 19       all the suspect and quasi-suspect classes and 20       requirements for program-setting goals for the 21       utilization of minority and -- and -- and women 22       business enterprises.  23       REP. HAMILTON: Thank you, 24       Representative. 25       REP. BLACKWELL: Did that answer the	42  1       adopting across the country? 2       REP. BISHOP: Well, it -- it prohibits -- 3       it -- it preempts the ability of localities to 4       adopt laws in this area. 5       REP. HAMILTON: And if a state were 6       contracting -- follow-up, last follow-up -- 7       REP. BLACKWELL: Last follow-up, and then 8       I need -- 9       REP. HAMILTON: -- and then I have -- 10       REP. BLACKWELL: -- to let some others 11       so -- we can come back to you -- 12       REP. HAMILTON: I understand. 13       REP. BLACKWELL: -- if we have time. 14       REP. HAMILTON: Thank you, Representative 15       Blackwell. They -- so if, in that scenario, a -- 16       say, the City of Wilmington wants to contract with 17       a -- with a private entity that has these rules and 18       regulations in place, will not be precluded from 19       doing so? 20       REP. BISHOP: That's correct. 21       REP. HAMILTON: Okay. 22       REP. STAM: It would be -- the only -- 23       the only restriction is imposing mandates on -- or 24       requirements on business. It wouldn't, in any way, 25       prevent a business from having those -- those
1       question, Representative Hamilton? 2       REP. HAMILTON: Another question. Yeah. 3       Yes, thank you very much. As it relates to private 4       corporations, it is my understanding there are a 5       number of private corporations inside and outside 6       of North Carolina that already have -- have rules 7       and regulations that address the use of bathrooms 8       in their -- in their corporate buildings. Does 9       this, in any way, deny a private corporation from 10       being able to enforce rules that are, quite 11       honestly, very similar to the rules that Charlotte 12       hopes to impose on April the 1st?  13       REP. BISHOP: Mr. Chairman, may I 14       respond? 15       REP. BLACKWELL: Yes. 16       REP. BISHOP: Thank you for the question, 17       Representative, and it gives an opportunity to -- 18       to emphasizes, again, that our legislation does not 19       impair, in any respect, private business's ability 20       to -- or to accommodate issues like that in the 21       manner they see fit.  22       REP. HAMILTON: Follow-up, Mr. Chairman? 23       So, it only restricts a government's ability from 24       having laws or rules in place that are similar to 25       rules that many of our nation's corporations are	43  1       requirements if they choose. 2       REP. HAMILTON: Thank you, Mr. Chairman. 3       Final question, and it's probably a staff question, 4       it's very short. I'd like to request a fiscal note 5       on this issue, based on the comments that were made 6       a few minutes ago by one of our presenters, that 7       there will be certain contracts that the City of 8       Charlotte, and maybe others, would have to break, 9       if you will. This could cost jobs, it could cost 10       public money, and I'd like to ask staff to -- to 11       put that together for us. 12       REP. BLACKWELL: Representative Bishop. 13       REP. BISHOP: One thing to say about 14       that -- that -- is -- the premise of that's not 15       accurate. That is to say, the bill doesn't require 16       anybody to break any contract. It takes effect 17       only with respect to contracts entered into in the 18       future. 19       REP. BLACKWELL: Representative 20       Richardson, we've got your name next. 21       REP. RICHARDSON: Thank you, Mr. 22       Chairman. I am concerned about Page 5, where the 23       investigation is going to be done by the Department 24       of Administration. If I recall correctly, we 25       defunded that Human Resources Department in our

<p>1 budget last year. Do we plan to go back and fund 2 that department so that we will have staff there?</p> <p>3 REP. STAM: I -- I think the premise of 4 the question's inaccurate, but I'll defer it to 5 Representative Dollar. That is to say, I think 6 there -- there may have been some discussion about 7 that, but I don't think it occurred, and it wasn't 8 last session.</p> <p>9 REP. DOLLAR: The budget is sufficient to 10 accommodate the bill. And I would also note, with 11 respect to a fiscal note, I believe fiscal notes 12 are restricted to things that impact the state's 13 budget, and I see nothing in this bill, as the 14 Senior Budget Chair, that in any way impacts the 15 finances of the state.</p> <p>16 REP. RICHARDSON: Follow-up, Mr. Chair?</p> <p>17 REP. BLACKWELL: Representative 18 Richardson.</p> <p>19 REP. RICHARDSON: Following 20 Representative Dollar's comment, when we advertise 21 for federal money, we have to put a disclosure 22 there that we do not discriminate. So does that 23 mean we may lose federal dollars if that clause is 24 not there, based on the -- the information that 25 you're putting here?</p>	<p>1 REP. BISHOP: Well, let -- let me say 2 two -- two things, if I might, to that. Or -- 3 for -- in the -- in the first instance, that the 4 Chapter 168A that furnishes protections from 5 disability discrimination, is actually referenced 6 here. The public accommodations definition is -- 7 comes from that chapter. And let -- let me try to 8 explain what the Court of Appeals held in the -- in 9 the parallel situation, and why I say that would 10 possibly foment confusion, possibly cause 11 plaintiffs in the future to forfeit rights that 12 they otherwise would have under law.</p> <p>13 Under the parallel statement of public 14 policy concerning employment discrimination 15 practices, it merely says the State of North 16 Carolina declares to be against public policy to -- 17 for there to be employment discrimination based on 18 race, color, age, national origin, sex, I -- and -- 19 and handicap. But the other statute is much more 20 comprehensive. There was a case in 2015 in which 21 the Court of Appeals considered a claim that 22 someone brought under that general public policy 23 statement. And because they brought it under that, 24 and they did not bring it under the disability 25 statute, the court said, there are no -- there's no</p>
<p>1 REP. BLACKWELL: Representative Bishop, 2 you want -- or Stam, you want to respond to that?</p> <p>3 REP. STAM: I'll do it, Mr. Chairman. 4 There's no change at all, with respect to state 5 policy of nondiscrimination. That is to say, and I 6 made reference to the sections in Chapter 143 7 that -- that specify a nondiscrimination policy in 8 contracting. So -- and -- and we've always had the 9 1976 statement with respect to employment 10 discrimination. That's been there for quite a long 11 time. There's no change at all with respect to 12 that, so I can't imagine that it would have the 13 effect that you asked about.</p> <p>14 REP. RICHARDSON: Thank you. One last 15 question, please.</p> <p>16 REP. BLACKWELL: Representative 17 Richardson.</p> <p>18 REP. RICHARDSON: Yes. Thank you, Mr. 19 Chairman. When we stated that, what is it, Chapter 20 160.8.A covers handicap?</p> <p>21 REP. BISHOP: Yes, ma'am.</p> <p>22 REP. RICHARDSON: Can we not add that to 23 this bill so that there will be total clarity here 24 and we would not have to flip-flop from different 25 documents?</p>	<p>1 private claim for relief created here, they have no 2 right to reasonable accommodation under that 3 statute.</p> <p>4 So I suggest to you that having 5 handicapped mentioned here is a trap for the unwary 6 if a lawyer doesn't happen to know the difference 7 between the two statutes, and inadvertently brings 8 it to the wrong place. The protection is 9 comprehensive under the disability chapter. And to 10 mention it here, merely for the sake of window 11 dressing, if you will, would actually hurt people, 12 rather than help them.</p> <p>13 REP. RICHARDSON: I thank you for your 14 comment, but it was confusing because in one sense, 15 you said an attorney, if he wasn't aware of 168A, 16 would probably lose his case. But then, you're 17 saying it would be put here for window dressing. 18 But thank you, anyway, for your comment.</p> <p>19 REP. BLACKWELL: Are there further 20 questions or comments from members of the 21 committee? I am not seeing any. In the absence of 22 any further comments or questions from the 23 committee, is --</p> <p>24 REP. RICHARDSON: Mr. Chairman, excuse 25 me. Mr. Chairman, excuse me. There is one more</p>

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<p>1 comment. May I make that?</p> <p>2 REP. BLACKWELL: Okay. We'll go come --</p> <p>3 go back to Representative Richardson.</p> <p>4 REP. RICHARDSON: I'm sorry. And this is</p> <p>5 a reference to a statement Representative Stam</p> <p>6 made. I live in Franklin County, and I certainly</p> <p>7 hope that my elected officials would be able to set</p> <p>8 policies and procedures and practices that would be</p> <p>9 unique to Franklin County, and anybody coming in</p> <p>10 that county from other counties would not feel that</p> <p>11 they cannot live here. I just can't see us having</p> <p>12 uniform practices and policies for 100 counties,</p> <p>13 when we don't have similar resources, we don't have</p> <p>14 similar needs, we don't have similar economic</p> <p>15 development. And I just wanted to comment on that</p> <p>16 statement.</p> <p>17 REP. BLACKWELL: Thank you,</p> <p>18 Representative Richardson. Representative Warren,</p> <p>19 you're recognized for a motion.</p> <p>20 REP. WARREN: Thank you, Mr. Chair. I'd</p> <p>21 like to make a motion for a favorable report for</p> <p>22 House Bill 2, the referral to the floor.</p> <p>23 REP. BLACKWELL: Okay. All those in</p> <p>24 favor will signify by saying aye.</p> <p>25 (Voice vote.)</p>	50	<p>52</p> <p>STATE OF NORTH CAROLINA COUNTY OF WAKE CERTIFICATION OF TRANSCRIPT</p> <p>This is to certify that the foregoing transcript of proceedings held on March 23, 2016, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.</p> <p>This 16th day of April, 2016.</p> <p>Brad Worley, transcriptionist Worley Reporting P.O. Box 99169 Raleigh, NC 27624 919-870-8070 <a href="mailto:brad@worleyreporting.com">brad@worleyreporting.com</a></p>
<p>1 REP. BLACKWELL: Opposed, no. The ayes</p> <p>2 have it, and the motion is adopted. The House will</p> <p>3 reconvene at 12:15, and the committee is adjourned.</p> <p>4 (End of proceedings.)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	51	

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# EXHIBIT G

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NORTH CAROLINA GENERAL ASSEMBLY  
SENATE JUDICIARY II COMMITTEE

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TRANSCRIPT OF THE PROCEEDINGS  
MARCH 23, 2016

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In Raleigh, North Carolina  
Wednesday, March 23, 2016  
Transcribed by Brad Worley

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Raleigh, NC 27624  
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Senate Judiciary II Committee  
NCGA HB 2 - March 23, 2016

Pages 2 to 5

1           SEN. RANDLEMAN: Terry Barnhardt? Thank 2        you. Larry Hancock? Steve McKaig? Thank you. 3        Matt Urban? Thank you. And Dale Huff? For those 4        who are here that would like to speak in opposition 5        to the bill, there -- Dale Huff has a list -- 6        sign-up sheet. We're going to allow those in 7        support and those in opposition to sign -- to speak 8        for two minutes, so if you want to go ahead and get 9        your name on the list, we will take up to five 10      speakers.  11       Let me introduce my co-chairs, Senator 12      Tamara Barringer and Senator Warren Daniel. Do 13      each -- either of you have comments? Okay. Thank 14      you. So we will go ahead and call House Bill 2 15      forward. I think it's going to be handled by 16      Senator Buck Newton and Representative Dan Bishop. 17      Where is Buck? One moment, please.  18       (Members at ease.) 19       SEN. RANDLEMAN: So, Senator Buck Newton 20      and Senator [sic] Dan Bishop, if you'll come 21      forward and present the bill. Excuse -- soon -- 22      soon to be -- soon to be, Representative. Thank 23      you.  24       SEN. NEWTON: Thank you, Madam. Thank 25      you, Madam Chairman. May I proceed?	2  1        privacy of women and children. I will not, and I 2        don't believe we will, be bullied by this political 3        correct mob. 4        They should have never passed this 5        ordinance. They were warned not to pass this 6        ordinance. The governor warned them privately, and 7        I think even publicly, many of the members of the 8        council acknowledged that they had no authority to 9        pass such an ordinance. Politics have reached a 10      new extreme when a municipality's top priority is 11      to find a way to allow men into a women's locker 12      room or bathroom. Tens of thousands of our 13      constituents, my constituents, your constituents, 14      across this state, have called on us to put a stop 15      to this nonsense. We've called on Roy Cooper to 16      put a stop to this nonsense, and he refuses to do 17      his job. 18       He refuses to enforce the law of this 19      state, so it falls to us. It falls to us. This 20      ordinance legalizes conduct, which in any other 21      place in North Carolina, would expose people to 22      going to jail. You don't have to be an attorney to 23      know that it's a bad idea if men start using the 24      ladies' room here at the General Assembly or 25      anywhere else. There's going to be problems, and
3  1        SEN. RANDLEMAN: Please. 2        SEN. NEWTON: Okay. Thank you. Thank 3        you very much, and thank you, colleagues, and -- 4        for being here today. It's a -- actually very 5        unfortunate that we have to be here today. I can't 6        believe that we are -- actually, I can't believe we 7        are here today and we're having to address this -- 8        this -- this issue that has been sent to us 9        gift-wrapped by the City Council of Charlotte. 10       As we all know, we have a problem. The 11      City of Charlotte and their City Council has 12      decided to push a very radical and dangerous 13      policy, and thrust itself into the spotlight, by 14      passing this ordinance that allows men to share the 15      bathroom and shower facilities with young girls and 16      women. That's why we're here today. 17       Charlotte's ordinance clearly violates 18      common sense. It also violates a number of state 19      laws, criminal trespass law, indecent exposure law 20      and building codes. You know, I'll just say it 21      like this: the radical left wing groups and the 22      liberal politicians like our current Attorney 23      General are afraid to stand up to the political 24      correctness mob and fight for common sense. They 25      refuse to take action to protect the safety and	3  1        everywhere else, these men would be arrested, and 2        it's basic common sense. 3        Sheriff B.J. Barnes said a majority of 4        people of Guilford County should not have to 5        compromise their safety and privacy in public 6        bathrooms and showers. Said he didn't want his 7        officers to be put in the awkward position of 8        determining who is entitled to be in the bathroom. 9        This ordinance not only endangers women 10      and children, but those from places far away who 11      visit Charlotte, and I'll point out, visit 12      Charlotte by passing through its busy airport. And 13      it's a shame, and it's a tragedy that we have to be 14      here today to deal with it. 15       You know, all you have to do is look at 16      recent news reports from Seattle detailing how a 17      grown man went into the changing room, I believe it 18      was at a pool, for young girls. And when 19      confronted over it, he claimed, "The law's changed 20      and I have a right to be here," and that's what 21      we're going to face if we don't address this 22      problem. 23       That can and that will happen here in 24      North Carolina if we allow this ordinance to go 25      into effect. That is why municipalities need to

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1 follow the same law across this state. That is why 2 it is important that we have a statewide standard 3 to deal with these issues. 4 I will point out to you that one of the 5 leaders of this effort to pass this ordinance was a 6 registered sex offender here in North Carolina. 7 One of the main vocal proponents of this -- of this 8 ordinance, and the media covered it up. They knew 9 all about it, but they refused to tell the public. 10 That's unacceptable. We're not going to stand for 11 it. 12 So we have a solution. We have it in 13 this bill that's before us. This bill addresses 14 these serious safety concerns. They've been raised 15 by Charlotte's ordinance by setting a single 16 statewide standard to ensure that men cannot use 17 ladies' bathrooms, locker rooms. And that the same 18 standard applies in our public schools, public 19 buildings and other places of public accommodation 20 throughout the State of North Carolina. This bill 21 does not prohibit schools or other facilities from 22 providing reasonable accommodations like single 23 occupancy bathrooms for people who may be facing 24 gender identity issues. It does not prohibit those 25 kinds of reasonable accommodations, but it does set	6	1 that they will find in Charlotte. Forcing 2 businesses to learn and comply with a patchwork of 3 different rules in different cities across the 4 state doesn't make any sense. It discourages them 5 from doing business here in North Carolina, and 6 this bill will help prevent that from happening. 7 Madam Chairman, if I could, at this time, 8 I will -- I ask if staff could go through the bill 9 in its particulars, and then I will be happy to 10 address questions from the committee. 11 SEN. RANDLEMAN: Any comments from 12 Representative Bishop? 13 REP. BISHOP: No, Madam Chairman. I 14 think that proceeding in the way that Senator 15 Newton has outlined is just fine, and I'm here if 16 there are any questions I can help with. 17 SEN. RANDLEMAN: Thank you. Then we will 18 ask Kara McCraw to go over the bill for the 19 members. 20 MS. MCCRAW (STAFF): Kara McCraw, Staff 21 Attorney with the Legislative Analysis Division. 22 On Page 1 of the bill, you'll see where it says 23 starting on Line 23 of 24, Part 1, Single Sex 24 Multiple Occupancy Bathroom and Changing 25 Facilities, Section 1.1 and 1.2 go together. 1.1	8
1 a single standard of multiuse facilities. 2 For the first time, this bill will also 3 establish a unify -- a uniform statewide 4 antidiscrimination policy. I think this is very 5 important for people to realize. For the first 6 time, this bill will establish a uniform statewide 7 antidiscrimination policy on the basis of race, 8 religion, color, national origin, age, sex or 9 handicap. This new antidiscrimination policy is 10 actually stronger than federal law, and it's long 11 overdue. 12 In going through the process of preparing 13 this legislation, and trying to figure out how we 14 were going to deal with this -- this insanity and 15 this ordinance, we realized that this was overdue, 16 and that this was part of the solution. This bill 17 will take steps to prevent future situations like 18 Charlotte's overreaching ordinance by creating 19 statewide consistency for laws relating to 20 employment and public accommodation. These are 21 policies that ought to be set at the state level, 22 and not in a patchwork, inconsistent framework. 23 Our businesses and our citizens deserve no less 24 than to understand that what they have in Morehead 25 City or Greenville or Wilson or Raleigh is the same	7	1 is a conforming change. Section 1.2 would require 2 schools or -- I'm sorry, local school 3 administrative units and local boards of education 4 to require that any multiple occupancy bathrooms or 5 changing facilities in the facilities be designated 6 for student use based on the student's biological 7 sex. The next -- on Page 2, you'll see 8 accommodations permitted. 9 The statute then goes on to say that 10 local boards may provide accommodations upon 11 request due to special circumstances, but it does 12 limit those accommodations to not allowing students 13 to use multiple occupancy bathrooms or changing 14 facilities based -- designated for the opposite 15 sex. There are a list of exceptions in D and 16 reasons that someone of the opposite sex might 17 enter the bathroom, and those are -- you can see 18 the list there: custodial purposes, maintenance 19 inspections, medical assistance, assistance to a 20 student, receiving assistance in using the 21 facility, accompanying a person other than a 22 student who needs assistance, and temporary 23 designation for -- based on a use by the person's 24 biological sex. That last one would allow 25 something like a visiting sports team to use a	9

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<p>1        boys' locker room on the night of the girls' game. 2              Section 1.3 then creates a similar 3        statute for other public agencies in North 4        Carolina, and that would cover the legislative, 5        judicial and executive branch agencies as well as 6        local governments. Would require those public 7        agencies to designate multiple occupancy bathrooms 8        for use based on biological sex. It has similar 9        accommodations, language and similar exceptions to 10      allow for custodial purposes, maintenance, medical 11      assistance, rendering -- accompanying a person 12      needing assistance for a minor using -- under the 13      age of seven who accompanies a person caring for 14      that minor or that have been temporarily designated 15      for use for by that person's biological sex.</p> <p>16        Part 2 of the bill then deals with 17      employment and contracting. Section 2.1 is part of 18      the Wage and Hour Act, and adds a new section that 19      specifically preempts local governments from 20      creating or imposing requirements upon employers 21      pertaining to compensation of employees. There are 22      several exceptions to this preemption. Those in -- 23      one, local governments can still have regulation 24      requiring their own employees. Two, economic 25      development incentives under Chapter 143B. Three,</p>	<p>1        employment. However, it would still allow them to 2        regulate their own employees. Section 3.2 adds 3        language to specify that the Equal Employment 4        Practices Act does not create a statutory or common 5        law private right of action. And then on Page 5, 6        there is a new statute, a new article being created 7        to create an equal access to public accommodations 8        statute in North Carolina. 9              That language first states the public 10      policy of the state to protect and safeguard the 11      rights of individuals with regard to enjoyment of 12      goods, services, facilities, privileges, advantages 13      and accommodation of places of public accommodation 14      free of discrimination based on race, religion, 15      color, national origin or biological sex. There is 16      an exception for providing separate bathrooms. 17              Subsection B then has similar preemption 18      language to the previous section that says that 19      local governments are not permitted to regulate or 20      impose requirements pertaining to regulation of 21      discriminatory practices in places of public 22      accommodation. The definition of public 23      accommodation mirrors 168A, which deals with 24      provision of handicapped facilities and 25      discrimination and access to facilities for</p>
<p>1        economic development incentives under the Local 2        Development Act of 1925. Four, a requirement of 3        federal community development brought block grants. 4        And five, programs established under two statutes 5        dealing with community development programs. 6              Section 2.2 and 2.3 deal with cities and 7        counties -- they're parallel statutes -- and they 8        would say that when a city and a county contract, 9        they are restricted from including in the contract 10      regulations or controls on contract -- contractors' 11      employment practices or mandating or prohibiting 12      provisions of goods, services or accommodations 13      except as otherwise required or allowed in state 14      law. 15              Part 3 of the bill has two sections. The 16      first section is 3.1 and 3.2; modify the Equal 17      Employment Practices Act in North Carolina. That 18      act creates a public policy of employment without 19      discrimination based on certain protected classes. 20              In Subsection C that's created on Page 4, 21      there is a preemption statute that would say that 22      local governments and other political subdivisions 23      would not be allowed to impose regulations or 24      requirements on employers pertaining to the 25      regulation of discriminatory practices in</p>	<p>1        handicapped. 2              And then finally, there is -- the 3        investigation provision on Page 5 allows the Human 4        Relations Commission at the state level to receive 5        complaints of discrimination and to engage in a 6        process to try to reach amicable resolution of 7        those complaints. And then there's similar 8        language as there was in the previous statute 9        indicating that this does not create a statutory or 10      common law private right of action. Section 4 is a 11      severability clause, and then Section 5 is your 12      effective date. 13              SEN. RANDLEMAN: Thank you. Senator 14      Newton, would you like to speak further on the 15      bill? 16              SEN. NEWTON: No, thank you, Madam 17      Chairman. I'm happy to answer any questions from 18      the committee. 19              SEN. RANDLEMAN: Questions from the 20      committee? Senator Bingham? 21              SEN. BINGHAM: Thank you, Madam Chairman. 22      Senator Newton, on page -- let's see, Page 3 under 23      sub-item, or -- that would be D, it lists public 24      authority as defined and it gives the General 25      Statute. Would you further explain that, please?</p>

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<p style="text-align: right;">14</p> <p>1           SEN. NEWTON: I'm sorry, Senator Bingham. 2     Could you tell me which line again you're talking 3     about? 4           SEN. BINGHAM: Sorry. Page -- it's Page 5     3. It would be Line 1 under D. It's got public 6     authority as defined, and what would that 7     definition be as "public authority"? I'm just -- 8           SEN. NEWTON: If I -- I would ask -- I'll 9     give this answer and then if -- if it can be 10    expanded upon by staff, I will. The intent of this 11    purpose was to cover every -- every government 12    entity that might be out there. So you have public 13    authorities -- what would be a good example? If -- 14    I'm trying to think of a good -- my mind went 15    blank. Airport authority, different quasi- 16    governmental authorities that have been created 17    around the state. 18           SEN. BINGHAM: Okay. Thank you. Thank 19    you, ma'am. 20           SEN. RANDLEMAN: Did that answer your 21    question, or did you want to -- some explanation of 22    the statutory reference? 23           SEN. BINGHAM: Well, that would be fine 24    also -- 25           SEN. RANDLEMAN: Okay. Kara, if you</p>	<p style="text-align: right;">16</p> <p>1           those shortly. 2           SEN. VAN DUYN: Thank you. 3           SEN. RANDLEMAN: Do you have a question? 4           SEN. VAN DUYN: No. Thank you very much. 5           SEN. RANDLEMAN: Questions from the 6     committee? Yes. Senator Jackson? 7           SEN. JACKSON: Thank you. My question is 8     about -- let's see, Page 5, Lines 25 through 31, 9     regarding the Human Relations Commission. It says, 10    "This article does not create and shall not be 11    construed to create or support a statutory" -- 12    "statutory or common law private right of action, 13    no person may bring a civil action based upon 14    public policy expressed herein." My question is, 15    does that modify existing law in North Carolina? 16    My understanding is that there is common law 17    regarding wrongful discharge in contravention of 18    public policy that, in effect, does allow for a 19    private right of action when someone is discharged 20    because of their race or because of their gender, 21    and how does this impact that existing common law? 22           SEN. RANDLEMAN: Senator Newton? 23           SEN. NEWTON: Thank you, Madam Chairman. 24           Thank you, Senator Jackson. It -- it is my opinion 25    and -- and my belief that the -- those of us who</p>
<p style="text-align: right;">15</p> <p>1           could speak to the statutory reference, please? 2           MS. MCCRAW: So, the definition that's 3     referenced there comes from the Local Government 4     Budget and Fiscal Control Act, and "public 5     authority" is defined there as a municipal 6     corporation other than a unit of local government, 7     not subject to the State Budget Act or a local 8     government authority, board, commission, council or 9     agency, that -- and then there are three criteria: 10    is not a municipal corporation, is not subject to 11    the State Budget Act, and operates on an area, 12    regional or multi-unit basis and the budgeting and 13    accounting systems of which are not fully a part of 14    the budgeting and accounting systems of a unit of 15    local government. 16           SEN. RANDLEMAN: Answer your question? 17           SEN. BINGHAM: Yes, ma'am. Thank you, 18    Madam Chairman, Senator Newton. 19           SEN. RANDLEMAN: Other questions from the 20    committee? Yes. Senator Van Duyn? 21           SEN. VAN DUYN: Madam Chairman, I put 22    forth an amendment, which you -- 23           SEN. RANDLEMAN: I -- I have those. 24           SEN. VAN DUYN: Okay. 25           SEN. RANDLEMAN: We're going to be doing</p>	<p style="text-align: right;">17</p> <p>1           were involved in the drafting of this language, it 2     was our intent to keep the status quo and not to 3     create any new private right of action. And my 4     answer to you would be, it is my opinion that it 5     doesn't change anything that is currently existing 6     law as it -- as it relates to the ability to bring 7     a cause of action for a wrongful discharge. There 8     may be others that have a different opinion. I 9     know that question was raised to me privately 10    before this meeting, but that is my opinion, and I 11    haven't seen anything as of yet that would change 12    that opinion. 13           SEN. RANDLEMAN: Follow up? 14           SEN. JACKSON: So just to specify; there 15    is no specific objection and nothing in this bill 16    that is intended to end the common law wrongful 17    discharge in contravention of public policy. Is 18    that my understanding? 19           SEN. NEWTON: That -- that's my 20    understanding, and that's -- that's my opinion. 21           SEN. JACKSON: I have another -- 22           SEN. RANDLEMAN: Follow up? 23           SEN. JACKSON: I have another question on 24    a different subject, but I'll take my turn if 25    someone else --</p>

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<p>1           SEN. RANDLEMAN: You can proceed with 2 your other question. 3           SEN. JACKSON: Okay. My other question 4 is about Title 9 and whether this is going to 5 impact Title 9 funding. I know the Office of Civil 6 Rights, the Federal Office of Civil Rights, has 7 issued legal guidance saying that sexual 8 discrimination including against transgender 9 students does violate -- and I know that Tennessee 10 was considering this bill, and very recently the 11 Republican Governor of Tennessee decided not to go 12 forward with this bill specifically out of a 13 concern that it would cost Tennessee billions of 14 dollars in lost federal funding. I know that North 15 Carolina receives billions of dollars in federal 16 funding, and what is our level of concern that this 17 is going to be put in jeopardy? 18           SEN. RANDLEMAN: Senator Newton? 19           SEN. NEWTON: Thank you. Thank you, 20 Madam Chairman. Thank you, Senator Jackson. 21 Again, that -- that question has been brought up to 22 us before. We don't see any risk to federal 23 funding under Title 9. The Obama Administration 24 has a very -- very radical and extreme view of what 25 would constitute discrimination against</p>	<p>18           1       supremacy principles. 2           2       SEN. RANDLEMAN: Other questions from the 3 committee? Yes. Senator Cook? 4           3       SEN. COOK: I -- as the grandfather of 5 two beautiful young granddaughters, I thank you. 6 Thank you. This is much, much needed legislation. 7 Thank you. 8           4       SEN. NEWTON: Thank you, sir. 9           5       SEN. RANDLEMAN: Other questions or 10 comments? Yes. Senator McInnis? 11           6       SEN. MCINNIS: Thank you, Madam 12 Chairperson. Senator Newton, I -- I heard you say 13 on Page 5, starting on Line 8, that we -- we found 14 that there was a void. It appeared in our statutes 15 that -- that left it to -- our folks were not 16 protected against some types of discrimination, and 17 I -- I'd just like for you to expound on that. I 18 heard what you said, and I -- I applaud you for 19 bringing this forward. That's one of the great 20 things about delving into something, you find 21 some -- you find a void in there. And this is a 22 grand opportunity to fix something that was -- that 23 was certainly in need of repair. 24           7       SEN. RANDLEMAN: Senator Newton? 25           8       SEN. NEWTON: Thank you. Thank you,</p>
<p>19           1       transgender. And they have tried to pursue that in 2 court, and twice, they have been rejected, in 3 Virginia and in Pennsylvania. So the current state 4 of the law does not hold their view, and it is -- 5 it is our view that -- that this would in no way 6 jeopardize Title 9 funding. 7           2       SEN. JACKSON: Do you wish to add 8 something? 9           3       REP. BISHOP: Yeah. Let me just add, 10 so -- so there's not a -- not a case in the country 11 anywhere that's embraced their view. It's on 12 appeal in the Fourth Circuit and in the Third 13 Circuit, but should that ever turn out going the 14 other way in the future in law, there would be 15 ample opportunity past that point. There would be 16 an entitlement to a matter before an administrative 17 law judge. Even after that's concluded, you have a 18 period of time after that. So there's nothing in 19 the doing of this that would have any impact 20 whatsoever on that. And -- and in fact, if there 21 were a decision that were adverse -- in -- in favor 22 of the Obama Administration's position at some 23 point in time, it would supersede and -- and there 24 still wouldn't be a loss of Title 9 funding; it 25 would just revert to a different rule, under</p>	<p>19           1       Madam Chairman. Thank you, Senator McInnis. I -- 2 I appreciate your comments. There -- there's a -- 3 a lot of, I think, confusion about where a citizen 4 whose -- who's being discriminated against might 5 have their -- their -- their way to get their day 6 in court. And, you know, federal law on this 7 matter has been clear for some time. North 8 Carolina -- I'm not sure exactly why, but 9 historically, North Carolina just had never adopted 10 any kind of public accommodation or -- or 11 antidiscrimination statewide policy to -- to, you 12 know, make it clear that you -- you can't 13 discriminate against, say, an African-American, you 14 know, renting a hotel room, for example. And -- 15 and I think we all today agree and know and 16 understand that that's off limits and should be off 17 limits, but this process -- I mean -- I hate to say 18 there's anything good about this process, but I 19 guess this would be one of them. 20           2       It became clear to us that there was no 21 such statewide standard and policy, and it was 22 better for us to go ahead and -- and really do more 23 than what federal law was, and expand this 24 protection from a policy standpoint for the state, 25 so that -- that we -- we wouldn't be faced with</p>

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1        questions of, you know, in -- in this jurisdiction, 2        you know, it was against the public policy to do X, 3        Y, Z, but in that jurisdiction, it's only X and Y 4        and -- and this jurisdiction it's P, D, Q, and -- 5        and we just thought it was important for business 6        and for our citizens to -- to have this clear 7        public policy statement of antidiscrimination. It 8        was -- it was long overdue, and -- and -- does 9        that -- that fairly -- you know, when it became 10      clear to everybody, we were like we -- we need to 11      do that, so thank you.  12      SEN. RANDLEMAN: Follow up?  13      SEN. COOK: Yes, ma'am. I just want to 14      say I appreciate the writers and those that have 15      put forth the thought on this, and to -- to right 16      the wrong that we originally came here for, and to 17      be able to -- to add some solid things that are 18      absolutely great for our state. And on behalf of 19      my family and my grandchildren, as Senator Cook 20      alluded to from his, I appreciate what you're doing 21      here today, and we'll bring this matter to a head 22      going about our business. Thank you so much.  23      SEN. NEWTON: Senator, may I add 24      something --  25      SEN. RANDLEMAN: Please.	22  1        will call on Kelly Tornow to explain the amendment. 2        MS. TORNOW (STAFF): Thank you, Madam 3        Chairwoman. Senator Lowe's amendment amends the 4        bill on Page 5, Lines 29 to 31 by deleting the 5        sentence that states, "This article does not create 6        and shall not be construed to create or support a 7        statutory or common law private right of action and 8        no person may bring any civil action based upon the 9        public policy expressed herein," so it deletes that 10      sentence.  11      SEN. RANDLEMAN: Senator Lowe, do you 12      wish to speak to the amendment?  13      SEN. LOWE: Yes. One of my concerns was 14      the -- that a person had no private right of 15      action. In other words, there's no State recourse. 16      If a person is being discriminated against, they 17      would automatically, as I understand it, have to go 18      to the federal level and not be able to do anything 19      at the state level. And I -- and I have a real 20      problem with discrimination at any level. So I 21      think that to say that no change is taking place 22      when indeed there is some change, is not true.  23      SEN. RANDLEMAN: Representative Bishop, 24      are you going to respond to the amendment? What do 25      you say?  23  1        SEN. NEWTON: -- Madam Chairman. You 2        know, I think it would be very, very, very ironic 3        if -- if members chose to vote against expanding 4        and clarifying the antidiscrimination policy of 5        this state on -- on some misnomer -- some -- some 6        mistaken idea. It's -- it's bad enough to talk 7        about, you know, men and women's bathrooms and 8        locker rooms, but it's hard for me to comprehend 9        that there's members of this body that would vote 10      against this policy that's identified in -- in this 11      section.  12      SEN. RANDLEMAN: Thank you, Senator 13      Newton. If the Sergeant-at-Arms will go ahead and 14      pass out the amendments? We have two amendments 15      for consideration.  16      (Members at ease.)  17      SEN. RANDLEMAN: The first amendment that 18      we're going to call is Senator Lowe.  19      SEN. DANIEL: We need to make sure that 20      she gets that.  21      SEN. RANDLEMAN: Okay. It would be 22      H2-ATC-2 Version 3, Senator Lowe. And I think 23      Senator Barringer needs a copy. Does everyone have 24      a copy? Staff needs copies. So the first one we 25      are calling forward is H2-ATC-2 Version 3, and I	24  1        REP. BISHOP: Senator -- Senator Newton 2        may want to add after I do, but I would like to 3        respond to that. There are ample cases at this 4        time saying that section doesn't create a cause of 5        action. There is a technical question whether 6        there is a common law claim for termination in 7        violation of public policy, that this is one of the 8        articulations of public policy that could affect 9        such a claim, but in each of those cases, the 10      remedial of -- the remedies that are available are 11      far more robust under federal law as things stand 12      anyway. So there's no -- there's no harm.  13      The -- they all -- the other thing is -- 14      and what we've done is we've added an entirely new 15      statement of protection from discriminatory 16      treatment in public accommodations, and in order to 17      do exactly what the courts have done under the 18      previous -- and we've made it clear that we are not 19      creating a cause of action there, either. So in 20      other words, there -- there's not a change of 21      substance. There's a technical change, and it will 22      not undermine remedies. And that's my view about 23      it.  24      And so it is -- it is -- it is a 25      distinction without a difference, and -- and the
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1        section does -- I do want to emphasize that. 2        There's ample numbers of cases saying that this 3        section does not create a cause of action as of 4        today. So I would think that it would not be an 5        amendment that I would recommend.  6        SEN. RANDLEMAN: Senator Newton? 7        SEN. NEWTON: Thank you. Thank you, 8        Madam Chairman. Thank you, Senator.  9        Senator, I -- I detect from the way you 10      asked the question that there may be a 11      misunderstanding about -- about the law, and I kind 12      of touched on that before, about -- there's 13      confusion about where a person goes to get their 14      remedy. And in North Carolina, it is -- it has 15      always been under -- under Title 7, and -- and 16      other federal statutes that you have a right of 17      action on public accommodation or employment 18      practices for, say, racial discrimination, for 19      example. So you can bring that action in state 20      court, or you can bring it in federal court. It -- 21      it -- both -- both courts can handle the matter, 22      but you have to meet the requisite requirements 23      to -- to bring such an action.  24       So when we were dealing with this, what 25      we -- what we didn't want to do was to create a	26	28
1        brand new right of action. There's -- there's -- 2        we're not changing anything in that regard in -- in 3        this -- in this bill. We -- we felt like that 4        would be problematic in terms of trying to get 5        support all the way through for this provision, if 6        we created a brand new way to sue when there's 7        already ample ways to bring an action if one 8        alleges discrimination of some kind under federal 9        law, and -- and, which would -- which would fit 10      with this -- this public policy declaration. So 11      the short answer is, we're not minimizing or 12      reducing a person's right to bring an action. 13      We're just not adding a new way to bring a new 14      cause of action.  15       SEN. LOWE: Follow-up? 16       SEN. RANDLEMAN: Follow-up. 17       SEN. LOWE: My understanding as I -- as I 18      begin to read this is that it is something new. 19      Right now, we can go through our state courts to 20      deal with discrimination, and as I understand this, 21      we can only do it through a federal system. Is 22      that what -- am I missing something, or?  23       SEN. NEWTON: No -- that's -- that's -- 24       SEN. RANDLEMAN: Senator Newton? 25       SEN. NEWTON: -- that's -- thank you,	27	29

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1 claim are as broad as you can imagine; back pay, 2 front pay, reinstatement, actual damages, punitive 3 damages, attorney's fees; all of that exists under 4 federal law. The state law adds not one whit of 5 remedial right.  6 To the point that you said there are 7 thousands -- there are many cases arising under the 8 common law right for termination in violation of 9 public policy, that's true, but that goes outside 10 of this. There are many articulations of public 11 policy that could give rise to that claim, this 12 being only one of them.  13 The remedy -- that's -- that's the point. 14 As many of the members, the lawyer members know, if 15 you're bringing a lawsuit, you articulate all of 16 the claim theories in the lawsuit that you have, 17 the different claims for relief. But what matters 18 to a plaintiff is what remedies they can recover, 19 what damages can they get. And to that point, 20 that's what I am saying, there is no diminution in 21 the remedies available whatsoever by the change 22 that is contemplated here.  23 SEN. RANDLEMAN: Senator Newton? 24 SEN. NEWTON: I -- I would just add, 25 Senator Jackson, you may not be aware that I've	30  1 So on Page 4, Line 28, that's Section 3.1 of the 2 bill. That adds sexual orientation and gender 3 identity to the list of protected classes listed 4 there. And then again, on Page 5, Line 12, which 5 is the -- which is Section 3.3, it does the same. 6 It adds sexual orientation and gender identity to 7 the list of protected classes.  8 SEN. RANDLEMAN: Thank you. Senator Van 9 Duyn, this is your amendment, so if you would like 10 to speak to your amendment.  11 SEN. VAN DUYN: Thank you, sir -- I'm 12 sorry. Thank you, Senator Randleman -- Madam 13 Chairman. We still have not received a copy of -- 14 a correct copy of the amendment.  15 SEN. RANDLEMAN: We're going to take care 16 of that. If you'll hold just a second.  16 UNIDENTIFIED SPEAKER: Madam Chair? 17 SEN. RANDLEMAN: Yes, sir?  18 UNIDENTIFIED SPEAKER: They did 19 distribute another copy, but it was a -- a copy for 20 Senator Lowe's amendment.  21 SEN. RANDLEMAN: Okay. Making it now. 22 I'm going to go over the amendment number again. 23 It is H2-AST-1 Version 3. Does everybody have a 24 copy of the amendment? Senator Van Duyn?  31	32  1 SEN. VAN DUYN: Thank you, Madam 2 Chairman. I am not sure that I agree with this 3 bill's assumption that we need statewide 4 consistency in regulation of employment. I, for 5 example, come from a county with an extremely high 6 cost of living and an extremely low average wage. 7 And so things like encouraging living wages are 8 very important to my county. But nevertheless, if 9 we are going to standardize our [break in audio] 10 language statewide, I think it's very important 11 that we say loud and clear that North Carolina is 12 open to -- open for business to everyone. And for 13 that reason, I think it's incumbent on us that we 14 amend the bill to include in our nondiscrimination 15 language sexual orientation and gender identity.  16 SEN. RANDLEMAN: Senator Newton? 17 SEN. NEWTON: Thank you, Madam Chairman. 18 Before I comment on the amendment, may I inquire of 19 the amendment sponsor?  20 SEN. RANDLEMAN: Proceed. 21 SEN. NEWTON: Thank you. Senator Van 22 Duyn, how would you define gender identity in 23 this -- with this amendment?  24 SEN. RANDLEMAN: Senator Van Duyn? 25 SEN. VAN DUYN: I think -- I think
1 practiced on both sides of these cases a number of 2 times of the years on both sides, the plaintiff and 3 the defense side. I -- I completely agree with 4 Representative Bishop's characterization, and -- 5 and I'm very comfortable that -- that what we've 6 done here is -- is the right policy and does not 7 add any -- any new right of action, nor does it 8 diminish anything that -- that a legitimate 9 plaintiff would bring forth in court.  10 SEN. RANDLEMAN: Thank you. Other 11 comments or questions as to the amendment? Seeing 12 none, we will call for a vote on the amendment. 13 Those in favor say aye.  14 (Voice vote.) 15 SEN. RANDLEMAN: Those opposing, nay? 16 (Voice vote.) 17 SEN. RANDLEMAN: The nays have the vote, 18 so the motion -- the amendment fails. Excuse me. 19 The next amendment is H2-AST-1 Version 3. Does 20 everybody have a copy of the amendment? I will 21 call on staff to explain the amendment. Oh, excuse 22 me; some members do not have copies. Everyone have 23 a copy now? So, Kelly, if you will please explain 24 the amendment.  25 MS. TORNOW: Thank you, Madam Chairwoman.	31	33  1 SEN. VAN DUYN: Thank you, Madam 2 Chairman. I am not sure that I agree with this 3 bill's assumption that we need statewide 4 consistency in regulation of employment. I, for 5 example, come from a county with an extremely high 6 cost of living and an extremely low average wage. 7 And so things like encouraging living wages are 8 very important to my county. But nevertheless, if 9 we are going to standardize our [break in audio] 10 language statewide, I think it's very important 11 that we say loud and clear that North Carolina is 12 open to -- open for business to everyone. And for 13 that reason, I think it's incumbent on us that we 14 amend the bill to include in our nondiscrimination 15 language sexual orientation and gender identity.  16 SEN. RANDLEMAN: Senator Newton? 17 SEN. NEWTON: Thank you, Madam Chairman. 18 Before I comment on the amendment, may I inquire of 19 the amendment sponsor?  20 SEN. RANDLEMAN: Proceed. 21 SEN. NEWTON: Thank you. Senator Van 22 Duyn, how would you define gender identity in 23 this -- with this amendment?  24 SEN. RANDLEMAN: Senator Van Duyn? 25 SEN. VAN DUYN: I think -- I think

1       that's -- gender identity is how someone identifies 2       their gender. 3           SEN. RANDLEMAN: Senator Newton? 4           SEN. NEWTON: Follow up? Thank you. So 5       we don't have a definition before us in this bill. 6       And so, being a lawyer, and knowing that issues -- 7       when you're talking about potentially opening the 8       door for litigation -- definitions of what is 9       gender identity would be important, so that's why I 10      asked the question. Would it be as -- for me, 11      gender identity would be what is on your birth 12      certificate, and how you were born. And -- and 13      you're saying that gender identity would be what 14      you -- what a person, I guess, thinks they are 15      today, or I don't know how else to describe it. So 16      that's why I'm asking you if you would define it 17      for me. 18           SEN. VAN DUYN: Well -- 19           SEN. RANDLEMAN: Senator Van Duyn? 20           SEN. VAN DUYN: -- thank you, Madam 21      Chairman. I think it is clear that not everyone 22      who gets labeled at birth continues to identify 23      with the gender of that label, and in fact -- 24      pursues at -- at -- at great expense emotionally 25      and otherwise the -- the gender that they truly	34  1       write to me and ask me to add this -- these kinds 2       of things to our state policy. So I think that at 3       this time, it would be best if we did not add 4       anything such as this into the bill, and I would 5       urge my colleagues to vote against the amendment. 6           SEN. RANDLEMAN: Senator Daniel? 7           SEN. DANIEL: Thank you, Madam Chairman. 8       This is a question for Senator Newton. So, Senator 9       Newton, I guess it is my understanding that this is 10      the similar language or maybe identical language to 11      what was included in the Charlotte ordinance, which 12      then prompted responses from thousands of our 13      citizens, which resulted in us being here in a 14      special session this week to deal with a problem 15      that was in only one city. So why would we then 16      come here to undo a problem in one county, and then 17      extend it across 99 other counties. I guess to me, 18      I just -- I don't understand the logic. 19           SEN. RANDLEMAN: Senator Newton? 20           SEN. NEWTON: I -- I think the best 21      response I can give is, I would agree. 22           SEN. RANDLEMAN: Senator Jackson? Other 23      questions from the members? Comments from the 24      members? Seeing none, we have before us Amendment 25      Number 2 to House Bill 2 --
35  1       identify with. And I think it's important for us 2       to recognize the fact that -- that we need to be 3       tolerant of those people, that they are, in fact, 4       our neighbors, and they are very vulnerable at the 5       time because of these gender identity issues. And 6       I'm just suggesting that we need to acknowledge 7       that -- that the gender at birth is not necessarily 8       the gender that they -- they identify with as they 9       develop. 10           SEN. RANDLEMAN: Senator Newton? 11           SEN. NEWTON: Thank you, Madam Chairman. 12      Members, I would -- I would urge you to vote 13      against the amendment, and I think that the -- the 14      colloquy and the questions that -- that I've just 15      had with Senator Van Duyn illustrate the -- the -- 16      difficulties of adding these categories to -- to 17      the bill. 18           These are discussions that are very 19       complicated, and -- and -- and very difficult, I 20       think, for society and as well as this body to get 21       their minds wrapped around, as well as to come up 22       with concrete definitions for terms that would be 23       important to establish what the public policy of 24       this state was. And I -- I candidly don't -- don't 25       believe that we have -- I've never had anybody	35  1       SEN. BAREFOOT: Madam -- Madam 2       Chairman -- 3           SEN. RANDLEMAN: Excuse me. Yes? 4           SEN. BAREFOOT: I'm -- I'm just -- 5           SEN. RANDLEMAN: Senator Barefoot? 6           SEN. BAREFOOT: Thank you, Madam 7       Chairman. I'm just sitting here thinking through 8       this, and I agree with the bill sponsor. We don't 9       know what this amendment does, and I don't think it 10      is a wise thing to be voting on something where you 11      do -- you have no idea what it does. And so I'm -- 12      I'm not sure if I'm stating this correctly, but I 13      think we ought to lay this amendment upon the 14      table, and that's my motion. 15           UNIDENTIFIED MEMBER: Second. 16           SEN. RANDLEMAN: So we have a motion to 17      lay upon the table? We have a second. This does 18      require a three-fifths vote in favor of the motion 19      to lay upon the table. So those supporting the 20      motion to lay upon the table, if you would raise 21      your hand? Can you count, Patrick? Those opposing 22      the motion to lay upon the table? The 23      motion -- the motion to lay upon the table carries, 24      so the motion is not before the committee, so thank 25      you.

1            So we're -- we're back to the bill. Do 2        we have any other amendments to come forward 3        regarding the bill? Seeing none. We had a signup 4        sheet, and if we could have the Sergeant-at-Arms go 5        back to monitor the time, we're going to rotate 6        back and forth for those supporting and those in 7        opposition of House Bill 2, and I will begin with 8        Reverend Mykal Slack. Two minutes.  9        MR. SLACK: Good morning, Madam Chair. 10      My name is -- is the microphone on? 11      SEN. RANDLEMAN: Mash the button. 12      MR. SLACK: Is it on? I would -- I would 13      like to have my full time. Thank you. Good 14      afternoon. My name is Reverend Mykal Slack. I am 15      a minister of the Christian faith; a director of 16      congregational life at a church here in Raleigh. I 17      am a proud African-American Southerner, a resident 18      of North Carolina, a husband and a soon-to-be 19      father.  20      As a preacher, it is my job to speak as 21      plainly as I can in all the places I'm called to 22      with as much love in my heart as I can muster. So 23      let me be plain and clear today. Telling a lie 24      over and over and over again does not make it true.  25      I am a transgender male, and I am not a	38	1        you -- are you really interested in me being spit 2        on and pushed around and shoved because of who I am 3        in a restroom? I implore you not. 4        Legislating mistreatment, hatred and 5        misunderstanding is shameful. Not doing your 6        homework is irresponsible. I am a child of God, so 7        I don't need your permission to be who I am called 8        to be, but I do need you to legislate in ways that 9        offer protection for me and every person in this 10      state. It is true. You should not vote on 11      legislation or amendments that you do not fully 12      understand the impact that they will have, so I 13      implore you to vote no today. Thank you. 14      SEN. RANDLEMAN: Thank you. Heather 15      Garofalo? 16      MS. GARAFALO: Heather Garofalo, small 17      business owner servicing Charlotte. I have friends 18      and family in the LGBT community, and I love them. 19      Every American private business owner in North 20      Carolina should be free to live and work according 21      to their beliefs without fear of punishment 22      unjustly by the government. In 2015, the Pew 23      Charitable Trust organization identified the top 24      ten states for job growth. Eight out of 10 of 25      these states do not contain state nondiscrimination	40
1        threat to you. Nor are other transgender people 2        threats to you. I get up in the morning. I go to 3        work every day. I go to church every Sunday. I 4        kiss my wife's belly every night before we go to 5        sleep.  6        This is not about protecting privacy. If 7        it was, you'd be just as interested and invested in 8        the citizens of North Carolina who are transgender 9        people who are more statistically subject to 10      harassment and physical violence in restrooms than 11      anyone else.  12      This isn't about political correctness. 13      Charlotte sought to ensure that I and other 14      transgender people like me would feel as safe in 15      restrooms as other people feel. The Charlotte 16      ordinance didn't raise the bar. It actually 17      leveled the playing field.  18      But this is -- this is about putting my 19      life at risk. This is about, perhaps, your own 20      fear. This is, perhaps, about a lack of education. 21      These issues and these conversations are not 22      difficult conversations to have: they're just 23      conversations that perhaps many of us haven't had 24      much. So the issue here is to have deeper 25      conversation. Is this the kind of behavior do	39	1        laws containing language around sexual orientation 2        and gender identity. Charlotte is beautiful 3        because of its diversity. 4        There are many worldviews and world 5        religions. There is strength in diversity. True 6        equality means that everyone can speak their 7        beliefs without fear of being silenced and 8        punished. I am pleased to report that not one case 9        has been filed by the ACLU in Charlotte, North 10      Carolina alleging discrimination that may have 11      occurred on behalf of an individual or organization 12      against our friends in the LGBT community. As a 13      business owner servicing Charlotte and throughout 14      the state, I am concerned about the unintended 15      consequences of this ordinance. 16      It lacks for me consistency, clarity of 17      how I will do business and -- and run my policies 18      all across the state. Furthermore, it forces me to 19      violate my deepest held beliefs. Either I will 20      check these beliefs at the door, or I can be 21      subject to \$500 in fines per day; lawsuits, jail 22      times and my business forced to close. In just 23      nine days, if you don't overturn this ordinance, 24      businesses across the state could have their 25      contracts cancelled simply because they hold a	41

1        different worldview. A loss of contracts equals 2        loss of revenue. A loss of revenue could equal 3        tens of thousands of jobs lost across the state. 4        This means financial hardship for so many families 5        in North Carolina.  6        Our sweet transgender children deserve 7        better than this. Switching them from one bathroom 8        to the next does not help them with their fears of 9        being accepted. A little girl that may dress as a 10      boy that goes into the next bathroom could be 11      violated. I care about them and all children.  12      SEN. RANDLEMAN: Debra Thompson.  13      MS. THOMPSON: My name is Debra Thompson. 14      I live in Pitt County, and I come to you as a 15      mother. My son, Sky, plays soccer. He still 16      sleeps with his favorite stuffed animal, Charlie 17      Cow, and he frequently makes huge messes around my 18      house with awesome art projects. My child is also 19      transgender. I love my child. I loved Sky when I 20      thought he was my daughter and I love him now that 21      he is my handsome, intelligent and very brave son. 22      On a practical level, telling schools that my son 23      can't use the appropriate bathroom means that my 24      son's education is compromised. How would your day 25      look if you couldn't go to the bathroom?	42  1        great state. Please do not legislate the right to 2        discriminate.  3        SEN. RANDLEMAN: Donna Eaton. 4        MS. EATON: My name is Donna Eaton, and I 5        come to you as a concerned mother. I have never 6        shared my story before publicly, but I'm coming to 7        you today because I felt compelled that somebody 8        had to speak out for what was going on. You see, I 9        was molested when I was a kid, and the trauma that 10      I experienced in the days after and the years after 11      was intense, to say the least. I lived in fear of 12      finding a man in my bathroom. It -- like, I 13      can't -- words don't begin to express what I went 14      through.  15      When I was in Massachusetts recently, a 16      transgender male was in the bathroom, and please 17      understand me to say that I am not saying that 18      anyone who is transgender is a -- is a threat to 19      society or that they are -- in that -- predators in 20      any way, shape or form. I believe that everybody 21      deserves to be treated with dignity and respect, 22      but seeing this man in the bathroom that -- with 23      me -- brought me -- it brought me right back to 24      where I was that years and years ago. If this bill 25      is not passed, it is going to open the door for
43  1        I know trans youth in my community who 2        purposefully dehydrate themselves so they do not 3        have to use the bathroom at school. One of my 4        son's friends has had to have his mother pick him 5        up from school every time he needs to use the 6        bathroom.  7        But this debate is about more than just 8        bathrooms. Seventy-four percent of youth who are 9        transgender are sexually harassed, and 55 percent 10      of them are physically attacked at school. 11      Twenty-eight percent drop out of school because of 12      this harassment, and 50 percent attempt suicide. 13      Fifty percent. These are statistics that scare me 14      to my core as a parent.  15      This debate is about whether the state 16      cares about my son's health and safety. By telling 17      my son he's different from other kids in North 18      Carolina, not as worthy of protection, you're also 19      telling me that I'm less important than other 20      parents. You're giving Sky's teachers permission 21      to view my son as less worthy of an education. 22      You're giving Sky's peers permission to continue to 23      harass, exclude and bully him. So please protect 24      my son and tell him that he is just as important 25      and every bit as valued as any other kid in our	45  1        people with malicious intent who would masquerade 2        as transgenders to come in and actually take 3        advantage of and have access to our kids and 4        ourselves.  5        I'm here to implore -- implore you on 6        behalf of one in four women that -- who have been 7        sexually abused that -- to vote for common sense. 8        That if you don't stand up for this, all North 9        Carolinians that -- are going to be at risk for 10      being perpetually victimized. That every time they 11      go to the bathroom, they will have to actually turn 12      around and face this -- this unconscionable fear. 13      So I just -- I urge you to vote in favor of this 14      bill. Thank you.  15      SEN. RANDLEMAN: Laura Nazario. 16      MS. NAZARIO: Hello, my name is Laura 17      Nazario. I'm a transgender woman from Charlotte, 18      North Carolina. I'm an Air Force veteran, a 19      musician, and I'm an active member of my community. 20      There are several places where I'd rather be than 21      where I'm standing today. I'd rather be playing 22      guitar and writing music. I'd rather be spending 23      time eating pasta with my Italian girlfriend. I'd 24      rather be home where it's safe. 25      At home, I don't have to worry about

<p style="text-align: center;">46</p> <p>1       whether someone will react to my masculine features 2       coupled with my feminine presentation. I don't 3       have to worry about someone noticing my Adam's 4       apple or my height or my broad shoulders. At home, 5       I don't have to worry about what bathroom to use. 6              This is a feeling that I've grown 7       accustomed to. The feeling that I should stay 8       hidden. That I should not be an active member in 9       my community. This feeling is fear. 10          The Charlotte non-discrimination 11       ordinance moved my city into the right direction. 12       It helps to create an environment where I can 13       simply live a normal life. Because isn't this what 14       any human being would want? 15          Removing these protections for people 16       like me only serve to set us back in Charlotte. 17       Not only in Charlotte, but in the entire state. I 18       urge you not to pass this bill. Help make North 19       Carolina a safe place for all members of the 20       community. Thank you. 21              SEN. RANDLEMAN: John Rustin. 22              MR. RUSTIN: Thank you, Madam Chairman. 23       Members of the committee, I'm John Rustin, 24       president of the North Carolina Family Policy 25       Council. On February 22nd, the Charlotte City</p>	<p style="text-align: center;">48</p> <p>1       out of business. 2              The City of Charlotte should not be 3       authorized to impose such an intolerant and 4       unconstitutional mandate as a condition of doing 5       business. And thirdly, Charlotte far exceeded its 6       authority when it passed these ordinance changes. 7       Cities and counties in North Carolina derive the 8       full extent of their authority only from the State 9       Constitution and acts passed by the State 10       legislature. The North Carolina General Assembly 11       has granted neither the City of Charlotte nor any 12       other city in the state the authority to do what 13       the Charlotte City Council has done. 14              If the ordinance changes are allowed to 15       stand, they will serve as a precedent for other 16       city and county governments to undermine proper 17       governmental authority and to create a patchwork of 18       disparate ordinances across the state. For these 19       reasons, we applaud you for considering this 20       legislation and ask that you give it your full 21       support. Thank you. 22              SEN. RANDLEMAN: Sky Thompson. 23              MR. THOMPSON: Before I start, I'd like 24       to ask something with everyone listening. If you 25       have a firm belief on either side, please just try</p>
<p style="text-align: center;">47</p> <p>1       Council approved a set of highly controversial and 2       hazardous ordinance changes which you've heard 3       about today. We have three primary concerns about 4       these ordinance changes. First, these changes mean 5       that men can enter women's restrooms, shower rooms, 6       bathhouses and similar facilities in any public 7       accommodation in the City of Charlotte, placing the 8       privacy, safety and dignity of women, children and 9       the elderly at great risk. 10          The City's extremely broad definition of 11       public accommodations mean this -- this new 12       ordinance would apply to any business that provides 13       goods or services. Essentially, any business. And 14       there is no exception for churches, church schools 15       and related church ministries. 16          Secondly, many citizens have sincere 17       religious beliefs that inform the way they live 18       their lives and conduct their businesses. Similar 19       ordinances in other states have been used to force 20       small business owners such as florists, bakers, 21       photographers, bed-and-breakfast owners, and others 22       to either conform to a government-dictated 23       viewpoint in violation of those sincerely held 24       beliefs or to face legal charges, fines and other 25       penalties that have ultimately caused some to go</p>	<p style="text-align: center;">49</p> <p>1       to clear your mind for the next two minutes while I 2       give my story, and please consider my side. My 3       name is Sky Thompson, and I'm a fifteen-year-old 4       transgender student at South Central High School in 5       Greenville. I've dealt with bullying my whole 6       life, and now I worry that my own state lawmakers 7       are bullying me as well. I feel bullied by you 8       guys. 9              In schools all over the place, 10       transgender kids are bullied on the daily to the 11       extent of physical attacks. Being in a public high 12       school and not being allowed in the right bathroom 13       for our own gender is embarrassing, and it gives 14       bullies all the more reason to pick on us. Imagine 15       yourself in my shoes, being a boy walking into a 16       ladies room. It's awkward and embarrassing and can 17       actually be dangerous to have to go to the wrong 18       bathroom. 19          By putting this law into place, you're 20       putting me in danger and not protecting -- or not 21       protecting those who aren't being threatened in the 22       first place. I've always heard people say that us, 23       as children, have a bright future ahead, that we 24       can be anything we want, so why is this any 25       different? I've always been told to be myself, but</p>

1        now I am being myself, and I'm being bullied for 2        it. I'm being picked on for it.  3        So, please, for the sake of my peers, my 4        friends and myself, don't vote for hate. Vote to 5        protect my peers, to protect myself and to protect 6        my rights and my peers' rights. Thank you.  7        SEN. RANDLEMAN: John Amanchukwu. 8        MR. AMANCHUKWU: My name is John 9        Amanchukwu, executive director for the Upper Room 10      Christian Academy, youth pastor for the Upper Room 11      Church of God and Christ. In the book entitled The 12      Marketing of Evil by David Kupelian, he says that 13      neutrality is collaboration. And in 1967, at the 14      Riverside Baptist Church, Dr. King said there comes 15      a time when silence becomes betrayal. When you 16      merge these two powerful statements together, you 17      come to find out that neutrality is a form of 18      collaboration and betrayal.  19      So today we push back against neutrality 20      for the voiceless thousands of boys and girls in 21      our public and private schools and the countless 22      teachers, administrators and principals and parents 23      who know the impending danger and harm of this 24      ordinance. It's common sense that boys should go 25      to the boys' room and girls should go to the girls'	50	1        look. The Charlotte ordinance would help me and 2        others like me. This bill would not, but would 3        discourage people to question my gender when all I 4        need to do is use the restroom.  5        In addition, my partner was brought up as 6        a girl and is now a man. However, he has not been 7        able to change his birth certificate due to having 8        been born overseas. Whether or not a person can 9        change their birth certificate is based on where 10      they were born, not where they choose to live. 11      This bill would force him, a man with a full beard, 12      to use women's restrooms. This bill that you're 13      proposing would force a man with a full beard to 14      use women's restrooms. I urge you to oppose this 15      bill.  16      SEN. RANDLEMAN: Mark Creech. 17      MR. CREECH: Ladies and gentlemen of the 18      committee, my name is Reverend Mark Creech, and I'm 19      the executive director of the Christian Action 20      League of North Carolina. I want to begin by 21      saying that on behalf of the League and the 22      thousands of churches that are connected to us, 23      thank you for holding this special session of the 24      legislature. The matter before you, as you well 25      know, is urgent.	52
1        room, period. I believe that God got it right in 2        Genesis 5 and 2 when he made them male and female. 3        If God didn't give you access to a male or female 4        bathroom via your anatomy, neither should we give 5        you access via ordinance or legislation, period.  6        According to the APA, as many as 98 7        percent of gender-confused boys and 88 percent of 8        gender-confused girls eventually accept their 9        biological sex after naturally passing through 10      puberty. In my closing, allow -- allow -- allow me 11      say this: that today, I received a phone call. I 12      got word that someone called our school and called 13      me a homophobic bigot, and I want you to know today 14      that if standing up for my wife and for my son and 15      my daughter, for the precious children of this 16      state makes me a homophobic bigot -- bigot, I will 17      be a homophobic bigot until the day that I die.  18      SEN. RANDLEMAN: Maggie Caddell. 19      MS. CADDELL: Hello, my name is Maggie 20      Caddell. I've heard a lot today about protecting 21      women and girls in the state of North Carolina. I 22      am a woman who has been seen and raised as a woman 23      from the time I was born. There have been a number 24      of times I've been hassled and questions -- 25      questioned in women's restrooms because of how I	51	1        There are some who will argue that by 2        overturning Charlotte's bathroom and public 3        accommodations ordinance, that you are 4        discriminating and victimizing one of the most 5        vulnerable groups of people in our state. I trust 6        that you will neither be distracted or disheartened 7        by such claims. It is unfortunate that the great 8        concepts of tolerance and compassion these days 9        have been often twisted to play upon our emotions 10      with unnecessary guilt. Tolerance doesn't mean 11      that we should accept all truth claims as valid, 12      and compassion doesn't require that we put our 13      women and children in danger.  14      The Charlotte ordinance defies logic. It 15      caters to the interest of a very few that embrace a 16      purely subjective reality and then require that the 17      rest of us adjust our reality accordingly. That's 18      not tolerance or compassion; that's absurdity.  19      The real victims of Charlotte's 20      ordinance are those who are endangered by 21      government's forced recognition that XX or XY 22      genetic markers are not objective, that blue is 23      pink and pink is blue. The real victims are 24      private businesses and churches forced to bow the 25      knee and cast their incense upon the altar of this	53

Senate Judiciary II Committee  
NCGA HB 2 - March 23, 2016

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1        new religion of gender denial and function. 2              You don't need to have any reservations 3        about upending this ordinance. By upending it, you 4        will actually be exposing its true nature, which is 5        intolerance practiced in the name of tolerance; 6        selfish indifference practiced in the name of 7        compassion. We commend the bill to you and urge 8        you to pass it.  9        SEN. RANDLEMAN: The Chair will recognize 10      Senator Newton for closing remarks.  11        SEN. NEWTON: Thank you, Madam Chairman, 12      thank you, members of the committee and -- and I 13      thank the members of the public who spoke to us 14      these last few minutes. I want to make a couple of 15      points and -- then I hope the committee will move 16      forward with the legislation.  17        First, I'd like to say that we are a 18      state of laws. We are a state of laws. We -- we 19      have a constitution, and it's imperative that we, 20      as a state, enforce those laws. And this applies 21      to whether or not a city or county has authority to 22      issue a certain ordinance on a certain kind of 23      policy or not. And it's important today that we 24      set a statewide standard about what is appropriate 25      here in the state of North Carolina as it relates	54	56
1        to bathroom policy, or employment practices, or 2        what we would all agree upon today should be a 3        public policy against discrimination.  4        We are a state of laws. Assault is 5        against the law. If I'm assaulted by someone, it's 6        against the law. Someone else, a member of this 7        public is assaulted, it's against the law. Those 8        laws should be enforced. I do not wish 9        discrimination upon anybody, and I don't believe 10      the members of this body do either. I urge your 11      support of the bill.  12        SEN. RANDLEMAN: Senator Bingham? 13        SEN. BINGHAM: Madam Chairman, I'd like 14      to move that we move ahead with this bill and move 15      for a favorable report.  16        SEN. RANDLEMAN: Do I hear a second? 17        SEN. ALEXANDER: I second, Madam Chair.  18        SEN. RANDLEMAN: Thank you, Senator 19      Alexander. Members -- members of the committee, we 20      have a motion to give the House bill to a favorable 21      report. Those in support of the legislation will 22      say aye.  23        (Voice vote.) 24        SEN. RANDLEMAN: Those opposing? 25        (Voice vote.)	55	57

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of  
proceedings held on March 23, 2016, is a true and accurate  
transcript of the proceedings as transcribed by me or under  
my supervision. I further certify that I am not related to  
any party or attorney, nor do I have any interest  
whatsoever in the outcome of this action.

This 16th day of April, 2016.

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Worley Reporting

# EXHIBIT H

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA**

JOAQUÍN CARCAÑO *et al.*,

Plaintiffs,

v.

PATRICK MCCRORY *et al.*,

Defendants

CASE NO. 1:16-CV-00236-TDS-JEP

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF NORTH CAROLINA *et al.*,

Defendants

CASE NO. 1:16-CV-00425-TDS-JEP

**EXPERT DECLARATION OF Paul W Hruz, M.D., Ph.D**

1. I have been retained by counsel for Defendants as an expert in connection with the above-captioned litigation. I have actual knowledge of the matters stated in this declaration. My professional background, experience, and publications are detailed in my curriculum vitae, a true and accurate copy which is attached as Exhibit A to this declaration. I received my doctor of philosophy degree from the Medical College of Wisconsin in 1993. I received my medical degree from the Medical College of Wisconsin in 1994. I am currently the Director of the Division of Pediatric Endocrinology and Diabetes at Washington University School of Medicine.

I served as the Director of the Pediatric Endocrinology Fellowship Program at Washington University from 2008-2016.

2. I am board certified in Pediatrics and Pediatric Endocrinology. I have been licensed to practice medicine in Missouri since 2000.
3. My professional memberships include the American Academy of Pediatrics, the Pediatric Endocrine Society, the Endocrine Society, and the American Association for Biochemistry and Molecular Biology.
4. I have extensive experience in treating infants and children with disorders of sexual development and am an active member of the multidisciplinary Disorders of Sexual Development (DSD) program at Washington University. The DSD Team at Washington University is part of the DSD-Translational Research Network, a national multi-institutional research network that investigates the genetic causes and the psychologic consequences of DSD.
5. In the nearly 20 years that I have been in clinical practice I have participated in the care of hundreds of children with disorders of sexual development including but not limited to congenital adrenal hyperplasia, 3 $\beta$ -hydroxysteroid dehydrogenase deficiency, partial and complete androgen insensitivity, 17-hydroxysteroid dehydrogenase deficiency, cloacal extrophy, aphallia, and Turner syndrome.
6. In my role as the director of the Division of Pediatric Endocrinology at Washington University, I have extensively studied the existing literature related to the incidence, potential etiology and treatment of gender dysphoria as efforts were made to develop a Transgender clinic at Saint Louis Children's Hospital. I have also participated in local and national meetings where the endocrine care of children with gender dysphoria has been discussed and debated. Pediatric patients referred to our practice for the evaluation and treatment of gender dysphoria are cared

for by an interdisciplinary team of providers that includes a psychologist and pediatric endocrinologist who have been specifically chosen for this role based upon a special interest in this rare patient population. Due to serious concerns regarding the safety, efficacy, and ethics of the current treatment paradigm, I have not directly engaged in hormonal treatment of patients with gender dysphoria.

7. My opinions as detailed in this declaration are based upon my knowledge and direct professional experience in the subject matters discussed. The materials that I have relied upon are the same types of materials that other experts in my field of clinical practice rely upon when forming opinions on the subject. A list of the sources I have relied on is attached as Exhibit B to this declaration.

8. Over my career, I have provided expert medical record review and testified at deposition in less than a dozen cases. I have never testified at trial and I have not been involved in any depositions in the past four years.

9. I am being compensated at an hourly rate for actual time devoted, at the rate of \$350 per hour. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I provide.

### **Basic Terminology**

10. Biological sex is a term that specifically refers to a member of a species in relation to the member's capacity to either donate (male) or receive (female) genetic material for the purpose of reproduction. This remains the standard definition that has been accepted and used by scientists, medical personnel, and society in general.

11. Gender, a term that had traditionally been reserved for grammatical purposes, is currently used to describe the psychologic and cultural characteristics of a person in relation to biological sex. Gender therefore exists in reference to societal perceptions, not biology.
12. Gender identity refers to a person's individual perception of being male or female.
13. Sexual orientation refers to a person's arousal and desire for sexual intimacy with members of the male or female sex.

#### **Human sexuality in relation to fundamental biology and observed variations**

14. Sex is genetically encoded at the moment of conception due to the presence of specific DNA sequences (i.e. genes) that direct the production of signals that influence the formation of the gonad to develop either into a testis or ovary. This genetic information is normally present on X and Y chromosomes. Chromosomal sex refers to the normal complement of X and Y chromosomes (i.e. normal human males have one X and one Y chromosome whereas normal human females have two X chromosomes). Genetic signals are mediated through the activation or deactivation of other genes and through programmed signaling of hormones and cellular transcription factors. The default pattern of development in the absence of external signaling is female. The development of the male appearance (phenotype) depends upon active signaling processes.
15. For members of the human species, sex is normatively aligned in a binary fashion (i.e., either male or female) in relation to biologic purpose. Medical designation of an individual as male or female is typically made at birth according to external phenotypic expression of primary sexual traits (i.e., presence of a penis for males and presence of labia and vagina for females).

16. Due to genetic and hormonal variation in the developing fetus, normative development of the external genitalia in any individual differs with respect to size and appearance while maintaining an ability to function with respect to biologic purpose (i.e. reproduction). Internal structures (e.g. gonad, uterus, vas deferens) normatively align with external genitalia.

17. Reliance upon external phenotypic expression of primary sexual traits is a highly accurate means to assign biologic sex. In over 99.9% of cases, this designation will correlate with internal sexual traits and capacity for normal biologic sexual function.

18. Due the complexity of signals that are involved in normal sexual development, it is not surprising that a small number of individuals are born with defects in this process. Defects can occur either through inherited or de novo mutations in genes that are involved in sexual determination or through environmental insults during critical states of sexual development. Persons who are born with such abnormalities are considered to have a disorder of sexual development (DSD). Most often, this is first detected as ambiguity in the appearance of the external genitalia.

19. Normal variation in external genital appearance (e.g. phallic size) does not alter the basic biologic nature of sex as a binary trait. “Intersex” conditions represent disorders of normal development, not a third sex.

20. Medical care of persons with DSDs is primarily directed toward identification of the etiology of the defect and treatment of any associated complications. Similar to other diseases, tools such as the Prader scale are used to stage the severity of the deviation from normal. In children with DSDs, characterization based upon phenotype alone does not reliably predict chromosomal sex nor does it necessarily correlate with potential for biological sexual function.

Decisions on initial sex assignment in these rare cases require detailed assessment by a team of expert medical providers.

21. Standard medical practice in the treatment of persons with DSDs has evolved with growing understanding of the physical and psychologic needs and outcomes for affected individuals. Previously, it was felt that a definitive sex assignment was necessary shortly after birth with the belief that this would allow patients with DSDs to best conform to the assigned sex. Current practice is to defer sex assignment until the etiology of the disorder is determined and, if possible, a prediction can be made on likely biologic and psychologic outcomes. When this cannot be done with confidence, a presumptive sex assignment is made. Factors used in making such decisions include chromosomal sex, phenotypic appearance of the external genitalia, and parental desires. The availability of new information can in rare circumstances lead to sex reassignment. Decisions on whether to surgically alter the external genitalia to align with sex are generally deferred until the patient is able to provide consent.

### **Gender Dysphoria in relation to Biological Sex**

22. Although gender usually aligns with biological sex, some individuals experience discordance in these distinct traits. Specifically, biologic females may identify as males and biologic males may identify as females. As gender by definition is distinct from biological sex, one's gender identity does not change a person's biological sex.

23. Individuals who experience significant distress due to discordance between gender identity and sex are considered to have "gender dysphoria". Although the prevalence of gender dysphoria has not been established by rigorous scientific analysis, estimates reported in the DSM-V are between 0.005% to 0.014% for adult males and 0.002% to 0.003% for adult females.

Thus, gender dysphoria is a rare condition. It is currently unknown whether these estimates are falsely low due to under-reporting, or if changing societal acceptance of transgenderism and the growing number of medical centers providing medical intervention for gender dysphoria affects the number of persons who identify as transgender. Recent data suggests that the number of people seeking care for gender dysphoria is increasing with some estimates as high as 4-fold.

24. Most people with gender dysphoria have normally formed and functional sexual organs. The etiology of gender dysphoria in these persons remains to be identified. Theories include prenatal hormone exposure, genetic variation, and postnatal environmental influences. Based upon the currently available but incomplete dataset, it is likely that gender dysphoria is multifactorial with differing qualitative and quantitative influences in any given individual. There is strong evidence against the theory that gender identity is determined at or before birth and is unchangeable. This comes from identical twin studies where siblings share genetic complements and prenatal environmental exposure but have differing gender identities.

25. Further evidence that gender identity is not fixed comes from well established peer reviewed literature demonstrating that the vast majority (80-95%) of children who express gender dysphoria revert to a gender identity concordant with their biological sex by late adolescence. It is not known whether individuals with gender dysphoria persistence have differing etiologies or severity of precipitating factors compared to desisting individuals.

26. The limited emerging data has suggested structural and functional differences between brains from normal and transgender individuals. These data do not establish whether these differences are innate and fixed or acquired and malleable. The remarkable neuronal plasticity of the brain is known and has been studied extensively in gender-independent contexts related to health and disease, learning and behavior.

## **Gender Ideology**

27. The modern attempt to equate gender identity with sex is not based upon sound scientific principles but rather is based upon ideology fueled by advocacy. Although worldviews among scientists and physicians, similar to society at large, differ, science is firmly grounded in physical reality not perception. The inherent link between human sexual biology and teleology is self-evident and fixed.

28. The claims of proponents of transgenderism, which include opinions such as “Gender defines who one is at his/her core” and “Gender is the only true determinant of sex” must be viewed in their proper philosophical context. There is no scientific basis for redefining sex on the basis of a person’s psychological sense of ‘gender’. It is erroneous and potentially damaging to equate these opinions as established medical fact.

29. The prevailing, constant and accurate designation of sex as a biological trait grounded in the inherent purpose of male and female anatomy and as manifested in the appearance of external genitalia at birth remains the proper scientific and medical standard. Redefinition of what is normal based upon pathologic variation is not established medical fact.

## **Potential Harm Related to Gender Dysphoria Treatments**

30. The fundamental purpose of the practice of medicine is to treat disease and alleviate suffering. An essential tenet of medical practice is to avoid doing harm in the process. Due to the frequent lack of clear and definitive evidence on how to best accomplish this goal, treatment approaches can and do frequently differ among highly knowledgeable, competent, and caring physicians.

31. Persons with gender dysphoria as delineated in the DSM-V experience significant psychological distress related to their condition with elevated risk of depression, suicide, and other morbidities. Thus, attempts to provide effective medical care to affected persons are clearly warranted.

32. Efforts to effectively treat persons with gender dysphoria require respect for the inherent dignity of those affected, sensitivity to their suffering, and maintenance of objectivity in assessing etiologies and long-term outcomes. Desistance (i.e. reversion to gender identity concordant with sex) provides the greatest lifelong benefit and is the outcome in the majority of patients and should be maintained as a desired goal. Any intervention that interferes with the likelihood of resolution is unwarranted and potentially harmful.

33. There is an urgent need for high quality controlled clinical research trials to determine ways to develop supportive dignity affirming social environments that maintain affirmation of biological reality.

34. The Endocrine Society published in 2009 clinical guidelines for the treatment of gender dysphoric patients which include temporary suppression of pubertal development of children with GnRH agonists (hormone blockers normally used for children experiencing precocious puberty) followed by hormonal treatments to induce the development of secondary sexual traits consistent with one's gender identity. This guideline was developed using the GRADE (Recommendations, Assessment, Development, and Evaluation) system for rating clinical guidelines. As directly stated in the Endocrine Society publication, "the strength of recommendations and the quality of evidence was low or very low." According to the GRADE system, low recommendations indicate "Further research is very likely to have an important

impact on our confidence in the estimate of effect and is likely to change the estimate". Very low recommendations mean that "any estimate of effect is very uncertain".

35. There is little or no data to support pubertal suppression as a safe or effective treatment for gender dysphoria in children or adolescents. As noted, it is well established that 80-95% of children with gender dysphoria will resolve by the end of puberty without direct intervention to affirm transgender identity. Unfavorable long-term psychiatric outcomes for transgender adults point to gender resolution following puberty as the best hope for gender dysphoric children and adolescents.

36. In addition, treatment of gender dysphoric children with hormonal treatment (pubertal suppression and cross-hormone therapy) carries significant risk. It is generally accepted, even by advocates of transgender hormone therapy, that hormonal treatment results in sterility which in many cases is irreversible. Emerging data also show that treated patients have lower bone density which may lead to increased fracture risk later in life. Other potential adverse effects include disfiguring acne, high blood pressure, weight gain, abnormal glucose tolerance, breast cancer, liver disease, thrombosis, and cardiovascular disease.

37. Since strategies for the treatment of transgendered children as summarized by the Endocrine Society guidelines are relatively new, long-term outcomes are unknown. Evidence presented as support for short term reductions in psychological distress following social transition in a "gender affirming" environment remains inconclusive. When considered apart from advocacy based agendas, multiple potential confounders are evident. The most extensive long-term data on this question comes from the Dutch experience. Although appropriate caution is warranted in extrapolating these outcomes with current treatments, adults who have undergone

social transition with or without surgical modification of external genitalia continue to have rates of depression and suicide far above the background population.

38. With regard to public restrooms and other intimate facilities, there is no evidence to support social measures that promote or encourage gender transition as a medically necessary or effective treatment for gender dysphoria. If anything, one might expect that such social affirmation measures would interfere with known rates of gender resolution. Any activity that encourages or perpetuates transgender persistence for those who would otherwise desist can cause significant harm, including permanent sterility, to these persons. This is particularly concerning given that children are likely incapable of making informed consent to castrating treatments.

39. There remains a significant and unmet need to better understand both the biological, psychological, and environmental basis for the manifestation of discordance of gender identity in affected individuals together with rigorous controlled investigation of long-term outcomes including adverse consequences of attempted intervention. Uncontrolled social experimentation including the forced acceptance of altered norms for distinguishing persons according to biological sex is a potentially harmful and unscientific approach to dealing with this serious condition.

Pursuant to 28 U.S.C § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: 08/09/2016  
Signed: Paul W Hruz  
Paul W. Hruz, M.D., Ph.D.

## Exhibit B

### Hruz Sources

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21. de Vries, A. L., Steensma, T. D., Cohen-Kettenis, P. T., VanderLaan, D. P., and Zucker, K. J. (2016) Poor peer relations predict parent- and self-reported behavioral and emotional problems of adolescents with gender dysphoria: a cross-national, cross-clinic comparative analysis. *Eur Child Adolesc Psychiatry* **25**, 579-588
22. de Vries, A. L., Steensma, T. D., Doreleijers, T. A., and Cohen-Kettenis, P. T. (2011) Puberty suppression in adolescents with gender identity disorder: a prospective follow-up study. *J Sex Med* **8**, 2276-2283
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31. Hembree, W. C., Cohen-Kettenis, P., Delemarre-van de Waal, H. A., Gooren, L. J., Meyer, W. J., 3rd, Spack, N. P., Tangpricha, V., Montori, V. M., and Endocrine, S. (2009) Endocrine treatment of transsexual persons: an Endocrine Society clinical practice guideline. *J Clin Endocrinol Metab* **94**, 3132-3154
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44. Olson, K. R., Durwood, L., DeMeules, M., and McLaughlin, K. A. (2016) Mental Health of Transgender Children Who Are Supported in Their Identities. *Pediatrics* **137**, e20153223
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53. Shumer, D. E., and Spack, N. P. (2013) Current management of gender identity disorder in childhood and adolescence: guidelines, barriers and areas of controversy. *Curr Opin Endocrinol Diabetes Obes* **20**, 69-73
54. Shumer, D. E., and Spack, N. P. (2015) Paediatrics: Transgender medicine--long-term outcomes from 'the Dutch model'. *Nat Rev Urol* **12**, 12-13

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63. Steensma, T. D., McGuire, J. K., Kreukels, B. P., Beekman, A. J., and Cohen-Kettenis, P. T. (2013) Factors associated with desistence and persistence of childhood gender dysphoria: a quantitative follow-up study. *J Am Acad Child Adolesc Psychiatry* **52**, 582-590
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66. van de Grift, T. C., Cohen-Kettenis, P. T., Steensma, T. D., De Cuypere, G., Richter-Appelt, H., Haraldsen, I. R., Dikmans, R. E., Cerwenka, S. C., and Kreukels, B. P. (2016) Body Satisfaction and Physical Appearance in Gender Dysphoria. *Arch Sex Behav* **45**, 575-585
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88. Zucker, K. J., Bradley, S. J., Kuksis, M., Pecore, K., Birkenfeld-Adams, A., Doering, R. W., Mitchell, J. N., and Wild, J. (1999) Gender constancy judgments in children with gender identity disorder: evidence for a developmental lag. *Arch Sex Behav* **28**, 475-502
89. Zucker, K. J., Bradley, S. J., Owen-Anderson, A., Kibblewhite, S. J., and Cantor, J. M. (2008) Is gender identity disorder in adolescents coming out of the closet? *J Sex Marital Ther* **34**, 287-290
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91. Zucker, K. J., Bradley, S. J., and Sanikhani, M. (1997) Sex differences in referral rates of children with gender identity disorder: some hypotheses. *J Abnorm Child Psychol* **25**, 217-227
92. Zucker, K. J., Bradley, S. J., Sullivan, C. B., Kuksis, M., Birkenfeld-Adams, A., and Mitchell, J. N. (1993) A gender identity interview for children. *J Pers Assess* **61**, 443-456
93. Zucker, K. J., Finegan, J. K., Doering, R. W., and Bradley, S. J. (1984) Two subgroups of gender-problem children. *Arch Sex Behav* **13**, 27-39
94. Zucker, K. J., Green, R., Coates, S., Zuger, B., Cohen-Kettenis, P. T., Zecca, G. M., Lertora, V., Money, J., Hahn-Burke, S., Bradley, S. J., and Blanchard, R. (1997) Sibling sex ratio of boys with gender identity disorder. *J Child Psychol Psychiatry* **38**, 543-551
95. Zucker, K. J., Green, R., Garofano, C., Bradley, S. J., Williams, K., Rebach, H. M., and Sullivan, C. B. (1994) Prenatal gender preference of mothers of feminine and masculine boys: relation to sibling sex composition and birth order. *J Abnorm Child Psychol* **22**, 1-13
96. Zucker, K. J., Lawrence, A. A., and Kreukels, B. P. (2016) Gender Dysphoria in Adults. *Annu Rev Clin Psychol* **12**, 217-247
97. Zucker, K. J., and Wood, H. (2011) Assessment of gender variance in children. *Child Adolesc Psychiatr Clin N Am* **20**, 665-680
98. Zucker, K. J., Wood, H., Wasserman, L., VanderLaan, D. P., and Aitken, M. (2016) Increasing Referrals for Gender Dysphoria. *J Adolesc Health* **58**, 693-694

## **Curriculum Vitae**

**Paul W. Hruz, MD, PhD**

Date: August 9, 2016

### **Personal Information**

Date of birth: November 22, 1965

Place of birth: WI

Citizenship: USA

### **Address and Telephone Numbers**

University: Washington University School of Medicine  
Department of Pediatrics  
Division of Endocrinology and Diabetes  
660 South Euclid Avenue, Campus Box 8208  
St. Louis, MO 63110  
Phone: 314-286-2797  
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email: hruz\_p@kids.wustl.edu

### **Present Position**

Associate Professor of Cell Biology and Physiology

Associate Professor of Pediatrics

Division Director, Pediatric Endocrinology and Diabetes

### **Education and Training**

1987 B.S., Chemistry, Marquette University, Milwaukee, WI  
1993 Ph.D., Biology and Physiology, Medical College of Wisconsin, Milwaukee, WI  
1994 M.D., Medicine, Medical College of Wisconsin, Milwaukee, WI  
1994 - 1997 Pediatric Residency, University of Washington - Pediatric , Seattle, Washington  
1997 - 2000 Pediatric Endocrinology Fellowship, Washington University - Pediatric Endocrinology , Saint Louis, MO

### **Academic Positions and Employment**

1996 - 1997 Locum Tenens Physician, Group Health of Puget Sound Eastside Hospital, Group Health of Puget Sound Eastside Hospital, Seattle , WA  
2000 - 2003 Instructor of Pediatrics, Washington University, St. Louis, MO  
2003 - 2011 Assistant Professor of Pediatrics, Washington University, St. Louis, MO

2004 - 2011 Assistant Professor of Cell Biology and Physiology, Washington University, St. Louis, MO  
2011 - Pres Associate Professor of Pediatrics, Washington University, St. Louis, MO  
2011 - Pres Associate Professor of Cell Biology and Physiology, Washington University, St. Louis, MO  
2012 - Pres Division Director, Pediatric Endocrinology and Diabetes, Washington University, St. Louis, MO

## Appointments and Committees

### NIH Study Sections:

2005 NIH- NIDDK Special Emphasis Panel ZDK1 GRB-6 (Non-Standing Member)  
2009 NIH- ACE Competitive Revisions ZRG1 AARR-H (95) S (Non-Standing Member)  
2009 NIH- AIDS and AIDS Related Research IRG (Standing Member)  
2011 NIH- Pediatric Endocrinologist K12 ZDK1 GRB-C (Non-Standing Member)  
2014 NIH- Special Emphasis Panel ZRG1 BBBPY 58 (Non-Standing Member)  
2014 NIH- AIDS and AIDS Related Research IRG (Standing Member)  
2015 NIH- Cardiovascular and Respiratory Sciences Special Emphasis Panel ZDK1 GRB-J (02) (Non-Standing Member)  
2015 NIH- NIDDK Special Emphasis Panel ZRG1 CVRS-Q (80) (Non-Standing Member)

### University Affiliations:

2008 - Pres Director, Pediatric Endocrinology & Diabetes Fellowship Program  
2010 - Pres Pediatric Computing Facility Advisory Committee  
2012 - Pres Disorders of Sexual Development Interdisciplinary Care Program  
2012 - Pres Director, Division of Pediatric Endocrinology & Diabetes  
2014 - Pres Research Consultant, ICTS Research Forum - Child Health  
2014 - Pres Director, Pediatric Diabetes Research Consortium

### Hospital Affiliations:

2000 - Pres Attending Physician, St. Louis Children's Hospital

### Thesis Committees (\* Chair)

2008 - 2011 Kelly Diggs-Andrews  
2008 - 2010 Irwin Puentes  
2008 - 2010 Tony Frovola  
2009 - 2010 Lauren Flessner  
2010 - 2012 Katie Boehle  
2010 - 2013 Candace Reno\*

### Advisor

Simon Fisher  
Simon Fisher  
Kelle Moley  
Kelle Moley  
Kelle Moley  
Simon Fisher  
Paul Hruz  
Audrey Odom  
Audrey Odom  
Katie Henzler-Wildman

2015 -Pres Allyson Mayer Brian DeBosch

#### Scholarship Oversight Committees

2013 -Pres Brittany Knipstein (Advisor: David Rudnick)

#### **Licensure and Certifications**

1997 - 2016 Board Certified in General Pediatrics  
2000 - 2014 MO State License #2000155004  
2001 - Pres Board Certified in Pediatric Endocrinology & Metabolism

#### **Honors and Awards**

1987 National Institute of Chemists Research and Recognition Award  
1987 Phi Beta Kappa  
1987 Phi Lambda Upsilon (Honorary Chemical Society)  
1988 American Heart Association Predoctoral Fellowship Award  
1994 Alpha Omega Alpha  
1994 Armond J. Quick Award for Excellence in Biochemistry  
1994 NIDDK/Diabetes Branch Most Outstanding Resident  
1998 Pfizer Postdoctoral Fellowship Award  
2002 Scholar, Child Health Research Center of Excellence in Developmental Biology at Washington University  
2013 Julio V Santiago, M.D. Scholar in Pediatrics

#### **Editorial Responsibilities**

##### Editorial Boards:

2014 - Pres Endocrinology and Metabolism Clinics of North America

##### Ad Hoc Reviewer:

AIDS  
AIDS Research and Human Retroviruses  
American Journal of Pathology  
American Journal of Physiology  
British Journal of Pharmacology  
Circulation Research  
Clinical Pharmacology & Therapeutics  
Comparative Biochemistry and Physiology  
Diabetes  
Experimental Biology and Medicine  
Future Virology  
Journal of Antimicrobial Chemotherapy  
Journal of Biological Chemistry  
Journal of Clinical Endocrinology & Metabolism  
Journal of Molecular and Cellular Cardiology  
Obesity Research

## **Professional Societies and Organizations**

1992 - 2004 American Medical Association  
1994 - 2005 American Academy of Pediatrics  
1995 - 2014 American Association for the Advancement of Science  
1998 - Pres American Diabetes Association  
1998 - Pres Endocrine Society  
1999 - Pres Pediatric Endocrine Society  
2004 - Pres American Society for Biochemistry and Molecular Biology  
2004 - Pres Society for Pediatric Research  
2004 - 2007 American Chemical Society  
2005 - Pres Full Fellow of the American Academy of Pediatrics  
2013 - Pres International Society for Pediatric and Adolescent Diabetes

## **Major Invited Professorships and Lectures**

2002 St. Louis Children's Hospital, Pediatric Grand Rounds, St. Louis, MO  
2004 National Disease Research Interchange, Human Islet Cell Research Conference, Philadelphia, PA  
2004 NIDA-NIH Sponsored National Meeting on Hormones, Drug Abuse and Infections, Bethesda, MD  
2005 The Collaborative Institute of Virology, Complications Committee Meeting, Boston, MA  
2005 University of Indiana, Endocrine Grand Rounds, Indianapolis, IN  
2006 Metabolic Syndrome Advisory Board Meeting, Bristol-Meyers Squibb, Pennington, NJ  
2007 American Heart Association and American Academy of HIV Medicine State of the Science Conference: Initiative to Decrease Cardiovascular Risk and Increase Quality of Care for Patients Living with HIV/AIDS, Chicago, IL  
2007 Medical College of Wisconsin, MSTP Annual Visiting Alumnus Lecture, Milwaukee, WI  
2007 St Louis Children's Hospital, Pediatric Grand Rounds, St Louis, MO  
2007 University of Arizona, Minority Access to Research Careers Seminar, Tucson AZ  
2008 Boston University, Division of Endocrinology, Diabetes and Nutrition, Boston, MA  
2009 St Louis Children's Hospital, Pediatric Grand Rounds, St Louis, MO  
2010 American Diabetes Association Scientific Sessions, Symposium Lecture Orlando, FL  
2010 University of Missouri Kansas City, School of Biological Sciences, Kansas City, MO  
2011 Life Cycle Management Advisory Board Meeting, Bristol-Myers Squibb, Chicago, IL  
2013 St Louis Children's Hospital, Pediatric Grand Rounds, St Louis MO  
2013 St Louis Children's Hospital CPU Lecture, St Louis MO

2014	Pediatric Academic Societies Meeting, Vancouver, Canada, May 5, 2014
2014	American Diabetes Association 74th Scientific Sessions, San Francisco, CA, June 13, 2014

### **Consulting Relationships and Board Memberships**

1996 - 2012 Consultant, Bristol Myers Squibb  
 1997 - 2012 Consultant, Gilead Sciences

### **Research Support**

#### Governmental Support

R01 (Hruz) 9/20/2009 - 5/31/2014 (NCE)  
 NIH

Direct Effects of Antiretroviral Therapy on Cardiac Energy Homeostasis  
 The goal of this project is to characterize the influence of antiretroviral therapies on myocardial energy homeostasis and to elucidate how these changes in substrate delivery adversely affect cardiac function in the stressed heart.

Role: Principal Investigator

R01 (Hruz) 4/1/2007 - 1/31/2012 (NCE)  
 NIH

Mechanisms for Altered Glucose Homeostasis During HAART

The goal of this project is to identify the cellular targets of HIV protease inhibitors that lead to peripheral insulin resistance, impaired beta-cell function, and alterations in hepatic glucose production and to elucidate the molecular mechanisms of these effects.  
 Role: Principal Investigator

#### Non-Governmental Support

Research Program (Hruz) 6/1/2009 - 5/31/2012 (NCE)  
 MOD

Regulation of GLUT4 Intrinsic Activity

The major goals of this project are to investigate the ability of the GLUT4 tethering protein TUG and an UBL-domain containing N-terminal fragment of this protein to alter the intrinsic activity of the insulin responsive facilitative glucose transporter, to determine whether protein ubiquitination influences this association, and to characterize the role of the GLUT4 binding site on the modulation of glucose transport.  
 Role: Principal Investigator

(Hruz) 3/9/2010 - 6/8/2011 (NCE)  
 Bristol-Myers Squibb

Protective Effect of Saxagliptin on a Progressive Deterioration of Cardiovascular Function

Role: Principal Investigator

(Hruz)  
 Gilead Pharma

Novel HIV Protease Inhibitors and GLUT4  
Role: Principal Investigator

II (Hruz) 2/1/2008 - 1/31/2011 (NCE)  
CDI

Insulin Resistance and Myocardial Glucose Metabolism in Pediatric Heart Failure  
Role: Co-Principal Investigator

Completed Support

R01 Student Supp (Hruz) 6/10/2009 - 8/31/2011

NIH

Mechanisms for Altered Glucose Homeostasis During HAART

II (Hruz) 2/1/2012 - 1/31/2015  
CDI

Solution-State NMR Structure and Dynamics of Facilitative Glucose Transport Proteins

**Past Trainees**

- 2002 - 2002 Nishant Raj- Undergraduate Student (Other)  
Study area: Research
- 2003 - 2004 Johann Hertel (Medical Student)  
Study area: Research  
Present position: Assistant Professor, University of North Carolina, Chapel Hill, NC
- 2003 John Paul Shen (Medical Student)  
Study area: Research
- 2004 - 2005 Carl Cassel- High School Student (Other)  
Study area: Research
- 2004 - 2004 Christopher Hawkins- Undergraduate Student (Other)  
Study area: Research
- 2004 - 2004 Kaiming Wu- High School Student (Other)  
Study area: Research
- 2005 Helena Johnson (Graduate Student)
- 2005 Jeremy Etzkorn (Medical Student)  
Study area: Research  
Present position: Assistant Professor, University of Pennsylvania
- 2006 Ramon Jin (Graduate Student)  
Study area: Research
- 2006 Taekyung Kim (Graduate Student)  
Study area: Research
- 2007 - 2008 Kai-Chien Yang (Graduate Student)  
Study area: Research  
Present position: Postdoctoral Research Associate, University of Chicago
- 2007 Paul Buske (Graduate Student)  
Study area: Research  
Present position: Postdoctoral Fellow, UCSF, San Francisco CA

2007	Randy Colvin (Medical Student) Study area: Research
2007 - 2007	Jan Freiss- Undergraduate Student (Other) Study area: Research
2008 - 2011	Arpita Vyas, MD (Clinical Fellow) Study area: Research Present position: Assistant Professor, Michigan State University, Lansing MI
2008 - 2009	Candace Reno (Graduate Student) Study area: Research Present position: Research Associate, University of Utah
2008	Temitope Aiyejorun (Grad Student) Study area: Research
2008 - 2012	Dennis Woo- Undergraduate Student (Other) Study area: Research Present position: MSTP Student, USC, Los Angeles CA
2009	Stephanie Scherer (Grad Student) Study area: Research
2009	Anne-Sophie Stolle- Undergraduate Student (Other) Study area: Research
2009 - 2009	Matthew Hruz- High School Student (Other) Study area: Research Present position: Computer Programmer, Consumer Affairs, Tulsa OK
2010	Constance Haufe- Undergraduate Student (Other) Study area: Research
2010 - 2011	Corinna Wilde- Undergraduate Student (Other) Study area: Researcher
2010 - 2010	Samuel Lite- High School Student (Other) Study area: Research
2011 - 2011	Amanda Koenig- High School Student (Other) Study area: Research
2011 - 2012	Lisa Becker- Undergraduate Student (Other)
2011 - 2011	Melissa Al-Jaoude- High School Students (Other)
2002 - 2010	Joseph Koster, PhD (Postdoc Fellow) Study area: Research
2005	Dominic Doran, DSc (Postdoctoral Fellow) Study area: HIV Protease Inhibitor Effects on Exercise Tolerance Present position: Faculty of Science, Liverpool John Moores Institute
2014 - 2014	David Hannibal (Clinical Research Trainee)
2010 - 2014	Lauren Flessner, PhD (Postdoctoral Fellow) Present position: Instructor, Syracuse University
2011 - 2016	Thomas Kraft (Graduate Student) Study Area: Glucose transporter structure/function Present position: Postdoctoral Fellow, Roche, Penzberg, Germany

## Clinical Responsibilities

General Pediatrician, General Pediatric Ward Attending: 2-4 weeks per year, St. Louis Children's Hospital  
Pediatric Endocrinologist, Endocrinology Night Telephone Consult Service: Average of 2-6 weeks/per year, St. Louis Children's Hospital  
Pediatric Endocrinologist, Inpatient Endocrinology Consult Service: 4-6 weeks per year, St. Louis Children's Hospital  
Pediatric Endocrinologist, Outpatient Endocrinology Clinic: Approximately 50 patient visits per month, St. Louis Children's Hospital

## Teaching Responsibilities

Facilitator, Biology 5011- Ethics and Research Science, 6 hours/year  
Facilitator, Cell Biology Graduate Student Journal Club, 4 hour/year  
Facilitator, Discussion: Pituitary, Growth & Gonadal Cases, 2 hours/year  
Facilitator, Medical Student Endocrinology and Metabolism Course, Small group  
Lecturer, Cell Signaling Course, Diabetes module, 3 hours/year  
Lecturer, Markey Course-Diabetes Module  
Lecturer, Medical Student Growth Lecture (Women and Children's Health Rotation): Variable  
Lecturer, Metabolism Clinical Rounds/Research Seminar: Presentations twice yearly  
Lecturer, Pediatric Endocrinology Journal Club: Presentations yearly

## Publications

1. Hruz, P. W., Narasimhan, C., Miziorko, H. M. (1992). 3-Hydroxy-3-methylglutaryl coenzyme A lyase: affinity labeling of the *Pseudomonas mevalonii* enzyme and assignment of cysteine-237 to the active site. *Biochemistry*, 31 (29), 6842-7 PubMed: [1637819](#).
2. Hruz, P. W., Miziorko, H. M. (1992). Avian 3-hydroxy-3-methylglutaryl-CoA lyase: sensitivity of enzyme activity to thiol/disulfide exchange and identification of proximal reactive cysteines. *Protein Sci*, 1 (9), 1144-53. PMCID: [PMC2142181](#) PubMed: [1304393](#).
3. Mitchell, G. A., Robert, M. F., Hruz, P. W., Wang, S., Fontaine, G., Behnke, C. E., Mende-Mueller, L. M., Schappert, K., Lee, C., Gibson, K. M., Miziorko, H. M. (1993). 3-Hydroxy-3-methylglutaryl coenzyme A lyase (HL). Cloning of human and chicken liver HL cDNAs and characterization of a mutation causing human HL deficiency. *J Biol Chem*, 268 (6), 4376-81 PubMed: [8440722](#).
4. Hruz, P. W., Anderson, V. E., Miziorko, H. M. (1993). 3-Hydroxy-3-methylglutaryl dithio-CoA: utility of an alternative substrate in elucidation of a role for HMG-CoA lyase's cation activator. *Biochim Biophys Acta*, 1162 (1-2), 149-54 PubMed: [8095409](#).
5. Roberts, J. R., Narasimhan, C., Hruz, P. W., Mitchell, G. A., Miziorko, H. M. (1994). 3-Hydroxy-3-methylglutaryl-CoA lyase: expression and isolation of the recombinant

- human enzyme and investigation of a mechanism for regulation of enzyme activity. *J Biol Chem*, 269 (27), 17841-6 PubMed: [8027038](#).
- 6. Hruz, P. W., Mueckler, M. M. (1999). Cysteine-scanning mutagenesis of transmembrane segment 7 of the GLUT1 glucose transporter. *J Biol Chem*, 274 (51), 36176-80 PubMed: [10593902](#).
  - 7. Murata, H., Hruz, P. W., Mueckler, M. (2000). The mechanism of insulin resistance caused by HIV protease inhibitor therapy. *J Biol Chem*, 275 (27), 20251-4 PubMed: [10806189](#).
  - 8. Hruz, P. W., Mueckler, M. M. (2000). Cysteine-scanning mutagenesis of transmembrane segment 11 of the GLUT1 facilitative glucose transporter. *Biochemistry*, 39 (31), 9367-72 PubMed: [10924131](#).
  - 9. Hruz, P. W., Mueckler, M. M. (2001). Structural analysis of the GLUT1 facilitative glucose transporter (review). *Mol Membr Biol*, 18 (3), 183-93 PubMed: [11681785](#).
  - 10. Hruz, P. W., Murata, H., Mueckler, M. (2001). Adverse metabolic consequences of HIV protease inhibitor therapy: the search for a central mechanism. *Am J Physiol Endocrinol Metab*, 280 (4), E549-53 PubMed: [11254460](#).
  - 11. Murata, H., Hruz, P. W., Mueckler, M. (2002). Investigating the cellular targets of HIV protease inhibitors: implications for metabolic disorders and improvements in drug therapy. *Curr Drug Targets Infect Disord*, 2 (1), 1-8 PubMed: [12462148](#).
  - 12. Hruz, P. W., Murata, H., Qiu, H., Mueckler, M. (2002). Indinavir induces acute and reversible peripheral insulin resistance in rats. *Diabetes*, 51 (4), 937-42 PubMed: [11916910](#).
  - 13. Murata, H., Hruz, P. W., Mueckler, M. (2002). Indinavir inhibits the glucose transporter isoform Glut4 at physiologic concentrations. *AIDS*, 16 (6), 859-63 PubMed: [11919487](#).
  - 14. Koster, J. C., Remedi, M. S., Qiu, H., Nichols, C. G., Hruz, P. W. (2003). HIV protease inhibitors acutely impair glucose-stimulated insulin release. *Diabetes*, 52 (7), 1695-700. PMCID: [PMC1403824](#) PubMed: [12829635](#).
  - 15. Liao, Y., Shikapwashya, O. N., Shteyer, E., Dieckgraefe, B. K., Hruz, P. W., Rudnick, D. A. (2004). Delayed hepatocellular mitotic progression and impaired liver regeneration in early growth response-1-deficient mice. *J Biol Chem*, 279 (41), 43107-16 PubMed: [15265859](#).
  - 16. Shteyer, E., Liao, Y., Muglia, L. J., Hruz, P. W., Rudnick, D. A. (2004). Disruption of hepatic adipogenesis is associated with impaired liver regeneration in mice. *Hepatology*, 40 (6), 1322-32 PubMed: [15565660](#).
  - 17. Hertel, J., Struthers, H., Horj, C. B., Hruz, P. W. (2004). A structural basis for the acute effects of HIV protease inhibitors on GLUT4 intrinsic activity. *J Biol Chem*, 279 (53), 55147-52. PMCID: [PMC1403823](#) PubMed: [15496402](#).
  - 18. Yan, Q., Hruz, P. W. (2005). Direct comparison of the acute in vivo effects of HIV protease inhibitors on peripheral glucose disposal. *J Acquir Immune Defic Syndr*, 40 (4), 398-403. PMCID: [PMC1360159](#) PubMed: [16280693](#).
  - 19. Hruz, P. W. (2006). Molecular Mechanisms for Altered Glucose Homeostasis in HIV Infection. *Am J Infect Dis*, 2 (3), 187-192. PMCID: [PMC1716153](#) PubMed: [17186064](#).
  - 20. Turmelle, Y. P., Shikapwashya, O., Tu, S., Hruz, P. W., Yan, Q., Rudnick, D. A. (2006). Rosiglitazone inhibits mouse liver regeneration. *FASEB J*, 20 (14), 2609-11 PubMed: [17077279](#).

21. Hruz, P. W., Yan, Q. (2006). Tipranavir without ritonavir does not acutely induce peripheral insulin resistance in a rodent model. *J Acquir Immune Defic Syndr*, 43 (5), 624-5 PubMed: [17133213](#).
22. Hruz, P. W., Yan, Q., Struthers, H., Jay, P. Y. (2008). HIV protease inhibitors that block GLUT4 precipitate acute, decompensated heart failure in a mouse model of dilated cardiomyopathy. *FASEB J*, 22 (7), 2161-7 PubMed: [18256305](#).
23. Hruz, P. W. (2008). HIV protease inhibitors and insulin resistance: lessons from in-vitro, rodent and healthy human volunteer models. *Curr Opin HIV AIDS*, 3 (6), 660-5. PMCID: [PMC2680222](#) PubMed: [19373039](#).
24. Flint, O. P., Noor, M. A., Hruz, P. W., Hylemon, P. B., Yarasheski, K., Kotler, D. P., Parker, R. A., Bellamine, A. (2009). The role of protease inhibitors in the pathogenesis of HIV-associated lipodystrophy: cellular mechanisms and clinical implications. *Toxicol Pathol*, 37 (1), 65-77. PMCID: [PMC3170409](#) PubMed: [19171928](#).
25. Tu, P., Bhasin, S., Hruz, P. W., Herbst, K. L., Castellani, L. W., Hua, N., Hamilton, J. A., Guo, W. (2009). Genetic disruption of myostatin reduces the development of proatherogenic dyslipidemia and atherosclerotic lesions in Ldlr null mice. *Diabetes*, 58 (8), 1739-48. PMCID: [PMC2712781](#) PubMed: [19509018](#).
26. Guo, W., Wong, S., Pudney, J., Jasuja, R., Hua, N., Jiang, L., Miller, A., Hruz, P. W., Hamilton, J. A., Bhasin, S. (2009). Acipimox, an inhibitor of lipolysis, attenuates atherosclerosis in LDLR-null mice treated with HIV protease inhibitor ritonavir. *Arterioscler Thromb Vasc Biol*, 29 (12), 2028-32. PMCID: [PMC2783673](#) PubMed: [19762785](#).
27. Vyas, A. K., Koster, J. C., Tzekov, A., Hruz, P. W. (2010). Effects of the HIV protease inhibitor ritonavir on GLUT4 knock-out mice. *J Biol Chem*, 285 (47), 36395-400. PMCID: [PMC2978568](#) PubMed: [20864532](#).
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33. Remedi, M. S., Agapova, S. E., Vyas, A. K., Hruz, P. W., Nichols, C. G. (2011). Acute sulfonylurea therapy at disease onset can cause permanent remission of KATP-induced diabetes. *Diabetes*, 60 (10), 2515-22. PMCID: [PMC3178299](#)

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34. Aerni-Flessner, L., Abi-Jaoude, M., Koenig, A., Payne, M., Hruz, P. W. (2012). GLUT4, GLUT1, and GLUT8 are the dominant GLUT transcripts expressed in the murine left ventricle. *Cardiovasc Diabetol*, 11, 63. PMID: [PMC3416696](#) PubMed: [22681646](#).
  35. Vyas, A. K., Aerni-Flessner, L. B., Payne, M. A., Kovacs, A., Jay, P. Y., Hruz, P. W. (2012). Saxagliptin Improves Glucose Tolerance but not Survival in a Murine Model of Dilated Cardiomyopathy. *Cardiovasc Endocrinol*, 1 (4), 74-82. PMID: [PMC3686315](#) PubMed: [23795310](#).
  36. Hresko, R. C., Kraft, T. E., Tzekov, A., Wildman, S. A., Hruz, P. W. (2014). Isoform-selective Inhibition of Facilitative Glucose Transporters: Elucidation of the Molecular Mechanism of HIV Protease Inhibitor Binding. *J Biol Chem*, 289 (23), 16100-16113. PMID: [PMC4047383](#) PubMed: [24706759](#).
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  38. Kraft, T. E., Hresko, R. C., Hruz, P. W. (2015). Expression, purification, and functional characterization of the insulin-responsive facilitative glucose transporter GLUT4. *Protein Sci* PubMed: [26402434](#).
  39. Kraft, T. E., Armstrong, C., Heitmeier, M. R., Odom, A. R., Hruz, P. W. (2015). The Glucose Transporter PfHT1 Is an Antimalarial Target of the HIV Protease Inhibitor Lopinavir. *Antimicrob Agents Chemother*, 59 (10), 6203-9. PMID: [PMC4576095](#) PubMed: [26248369](#).
  40. DeBosch, B. J., Heitmeier, M. R., Mayer, A. L., Higgins, C. B., Crowley, J. R., Kraft, T. E., Chi, M., Newberry, E. P., Chen, Z., Finck, B. N., Davidson, N. O., Yarasheski, K. E., Hruz, P. W., Moley, K. H. (2016). Trehalose inhibits solute carrier 2A (SLC2A) proteins to induce autophagy and prevent hepatic steatosis. *Sci Signal*, 9 (416), ra21 PubMed: [26905426](#).
  41. Hresko, R. C., Kraft, T. E., Quigley, A., Carpenter, E. P., Hruz, P. W. (2016). Mammalian glucose transporter activity is dependent upon anionic and conical phospholipids. *J Biol Chem*, 2016 Jun 14. PubMed: [27302065](#).

## Invited Publications

1. Hruz, P. W., Mueckler, M. M. (2001). Structural analysis of the GLUT1 facilitative glucose transporter (review). *Mol Membr Biol*, 18 (3), 183-93 PubMed: [11681785](#).
2. Hruz, P. W., Murata, H., Mueckler, M. (2001). Adverse metabolic consequences of HIV protease inhibitor therapy: the search for a central mechanism. *Am J Physiol Endocrinol Metab*, 280 (4), E549-53 PubMed: [11254460](#).
3. Murata, H., Hruz, P. W., Mueckler, M. (2002). Investigating the cellular targets of HIV protease inhibitors: implications for metabolic disorders and improvements in drug therapy. *Curr Drug Targets Infect Disord*, 2 (1), 1-8 PubMed: [12462148](#).
4. Hruz, P. W. (2006). Molecular Mechanisms for Altered Glucose Homeostasis in HIV Infection. *Am J Infect Dis*, 2 (3), 187-192. PMID: [PMC1716153](#) PubMed: [17186064](#).
5. Grunfeld, C., Kotler, D. P., Arnett, D. K., Falutz, J. M., Haffner, S. M., Hruz, P.,

- Masur, H., Meigs, J. B., Mulligan, K., Reiss, P., Samaras, K., Working, Group 1 (2008). Contribution of metabolic and anthropometric abnormalities to cardiovascular disease risk factors. *Circulation*, 118 (2), e20-8. PMID: [PMC3170411](#) PubMed: [18566314](#).
6. Hruz, P. W. (2008). HIV protease inhibitors and insulin resistance: lessons from in-vitro, rodent and healthy human volunteer models. *Curr Opin HIV AIDS*, 3 (6), 660-5. PMID: [PMC2680222](#) PubMed: [19373039](#).
  7. Flint, O. P., Noor, M. A., Hruz, P. W., Hylemon, P. B., Yarasheski, K., Kotler, D. P., Parker, R. A., Bellamine, A. (2009). The role of protease inhibitors in the pathogenesis of HIV-associated lipodystrophy: cellular mechanisms and clinical implications. *Toxicol Pathol*, 37 (1), 65-77. PMID: [PMC3170409](#) PubMed: [19171928](#).
  8. Hruz, P. W. (2011). Molecular mechanisms for insulin resistance in treated HIV-infection. *Best Pract Res Clin Endocrinol Metab*, 25 (3), 459-68. PMID: [PMC3115529](#) PubMed: [21663839](#).
  9. Hruz, P.W. (2014). HIV and endocrine disorders. *Endocrinol Metab Clin North Am*, 43 (3), xvii–xviii PubMed: [25169571](#).

#### **Book Chapters (most recent editions)**

1. Henderson KE, Baranski TJ, Bickel PE, Clutter PE, Clutter WE, McGill JB "Endocrine Disorders in HIV/AIDS ." *The Washington Manual Endocrinology Subspecialty Consult*. Philadelphia, PA: Lippincott Williams and Wilkins, 2008. 321-328.

# EXHIBIT I

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA**

JOAQUÍN CARCAÑO *et al.*,

Plaintiffs,

*v.*

CASE NO. 1:16-CV-00236-TDS-JEP

PATRICK MCCRORY *et al.*,

Defendants

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UNITED STATES OF AMERICA,

Plaintiff,

*v.*

CASE NO. 1:16-CV-00425-TDS-JEP

STATE OF NORTH CAROLINA *et al.*,

Defendants

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**DECLARATION OF QUENTIN L. VAN METER, MD**

1. I have been retained by counsel for Defendants as an expert in connection with the above-captioned litigation. I have actual knowledge of the matters stated in this declaration. My professional background, experience, and publications are detailed in my curriculum vitae, a true and accurate copy which is attached as Exhibit A to this declaration.
2. I received my B.A. in Science at the College of William and Mary, and my M.D. from the Medical College of Virginia, Virginia Commonwealth University.

3. I am currently a pediatric endocrinologist in private practice in Atlanta Georgia. I am the President of Van Meter Pediatric Endocrinology, P.C. I am on the clinical faculties of Emory University School of Medicine and Morehouse College of Medicine, in the role of adjunct Associate Professor of Pediatrics.

4. I am board certified in Pediatrics and Pediatric Endocrinology. I have been licensed to practice medicine in Georgia since 1991. I have been previously licensed to practice medicine in California, Louisiana, and Maryland.

5. I did my Pediatric Endocrine fellowship at Johns Hopkins Hospital from 1978-1980. The faculty present at that time had carried on the tradition of excellence established by Lawson Wilkins, M.D. Because of the reputation of the endocrine program as a center for exceptional care for children with disorders of sexual differentiation, I had well-above average exposure to such patients. As a Pediatric Fellow, I was also exposed to adults with Gender Identity Disorder, then called Trans-Sexuality, and received training from John Money, Ph.D., in his Psycho-hormonal Division.

6. I have maintained a continued interest in gender discordance since my fellowship years and have read extensively the literature in scientific peer-reviewed journals and have attended national and international pediatric endocrine conferences where this subject is presented and discussed. I am also familiar with the wide array of commentary on the subject.

7. My professional memberships include The Pediatric Endocrine Society, the Endocrine Society, the American Association of Clinical Endocrinologists where I hold a position on the Pediatric Scientific Committee, the American Diabetes Association, and I am a fellow of the American College of Pediatricians, currently serving on the Board of Directors as Vice

President. I am on the Board of Directors of Camp Kudzu, a non-profit organization which provides diabetes camp experience in Georgia.

8. My opinions expressed in this report are based upon my education, training, and experience in the subject matters discussed. The materials that I have relied upon are the same types of materials that other experts in my field rely upon when forming opinions. Specific sources upon which I rely in this declaration are footnoted.

9. Over my career, I have served as an expert witness in medical malpractice cases for both plaintiff and defense. I have testified at Georgia State Legislative Committee hearings. In the past four years, I have testified by deposition in *Harlen Schneider v. J. Enrique Lujan, M.D. et al.*, in the circuit court of the first judicial circuit of Okaloosa County, FL, Civil Division, on 7 Feb 2014; and in the case of plaintiff Kimora Gilmer, represented by attorneys at the Birmingham, AL, firm of Pittman Dutton on 22 May 2014.

10. My publications include a textbook chapter, case studies, and articles generated by clinical research studies. I serve on the speaker's bureau of major pharmaceutical companies.

11. I am being compensated at an hourly rate for actual time devoted, at the rate of \$250 per hour. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I provide.

### **Sexual Differentiation in the Fetus**

12. From the moment of conception, a fetus is determined to be either a male (XY), female (XX), or in rare cases, to have a combination of sex-determining chromosomes, many of which are not compatible with life, and some of which are the cause of identifiable clinical syndromes. The presence of a Y chromosome in the developing fetus directs the developing gonadal tissue to develop as a testicle. The absence of a functional Y chromosome allows the gonadal tissue to

develop as an ovary. Under the influence of the mother's placental hormones, the testicle will produce testosterone which directs the genital tissue to form a penis and a scrotum.

Simultaneously, the testicle produces anti-Müllerian Hormone (AMH) which regresses development of the tissue that would otherwise develop into the uterus, fallopian tubes, and upper third of the vagina.

13. This combination of actions in early fetal development is responsible for what we subsequently see on fetal sonograms, and what we observe at birth as male or female genitalia. It is only when the genital structures are ambiguous in appearance that sex assignment is withheld until a thorough expert team evaluation has occurred.

14. For reasons most often occurring as random events, there are malfunctions of the normal differentiation. These aberrations of normal development are responsible for what we classify as Disorders of Sexual Differentiation (DSD) and they represent a very small fraction of the human population. The incidence of such circumstances occurs in 1:4500 to 1:5500 births.<sup>1</sup>

15. Sex is binary, male or female, and is determined by chromosomal complement and corresponding reproductive role. The exceedingly rare DSDs are all medically identifiable deviations from the human binary sexual binary norm. The 2006 consensus statement of the Intersex Society of North America and the 2015 revision of the Statement does not endorse DSD as a third sex.<sup>2</sup>

16. DSD outcomes range from appearance of female external genitalia in an XY male (complete androgen insensitivity syndrome) to appearance of male external genitalia in an XX female (severe congenital adrenal hyperplasia). As one would expect, there are variations of the

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<sup>1</sup> Lee PA et al, Global Disorders of Sex Development Update since 2006: Perceptions, Approach and Care, 2016 Horm Res Paediatr.

<sup>2</sup> Lee PA et al, Consensus Statement on Management of Intersex Disorders, Pediatrics 2006; 118 e488-e500.

degree of hormonally driven changes that create ambiguous genital development that prevent assigning of a specific classification as either male or female at birth.

17. DSD patients are not “transgender”; they have an objective, physical, medically verifiable, physiologic condition. Transgender people generally do not have intersex conditions or any other verifiable physical anomaly. People who identify as “feeling like the opposite sex” or “somewhere in between” do not comprise a third sex. They remain biological men or biological women.

18. In some DSDs there exist more than one set of chromosomes. When there is a divergence of the appearance of the external genitalia from the chromosomally-determined sex due to the presence of both an ovarian and testicular cell lines in a patient simultaneously, the patient is classified as having ovo-testicular DSD (formerly termed a true hermaphrodite). When there is a disruption in the development of genital structures but there is solely testicular tissue present in the chromosomal male or solely ovarian tissue in the chromosomal female, the term 46 XY DSD or 46 XX DSD is used instead respectively (formerly termed male pseudohermaphrodite or female pseudohermaphrodite).

19. The decision to assign a sex of rearing is complex and is specific to the diagnosis. Patients with complete androgen insensitivity (CAIS) are XY DSD but are never reared as a male. Because testosterone never influences development, they become happy, functional female adults with infertility. Females with severe congenital adrenal hyperplasia (CAH) are XX DSD but are not reared as males despite the male appearance of the genitalia at birth. Although these girls may show a tendency for male play behaviors as children, they generally assume a female sexual identity.

20. Therapeutic interventions in the DSD individuals from infancy onward are aimed at what function can be expected from their disordered sexual anatomy in terms of function and fertility. Most often, the chromosomal sex aligns with the sex of rearing.

### **Gender Identity**

21. “Gender” is a term that refers to the psychological and cultural characteristics associated with biological sex. It is a psychological concept and sociological term, not a biological one. The term gender possessed solely a linguistic meaning prior to the 1950s. This changed when sexologists of the 1950s and 1960s manipulated the term to conceptualize cross-dressing and transsexualism in their psychological practice.

22. “Gender identity” is a term coined by my former endocrine faculty member John Money in the 1970s and has come to refer to an individual’s mental and emotional sense of being male or female. The norm is for individuals to have a gender identity that aligns with one's biological sex.

23. Gender discordance (formerly Gender Identity Disorder) is used to describe a psychological condition in which a person experiences marked incongruence between his experienced gender and the gender associated with his biological sex. He will often express the belief that he is the opposite sex.

24. Gender discordance occurs in 0.001% of biological females and in 0.0033% of biological males.<sup>3</sup> Exact numbers are hard to document since reporting is often anecdotal. Gender discordance is not considered a normal developmental variation.

25. “Gender Dysphoria” is a diagnostic term to describe the emotional distress caused by gender incongruity.<sup>4</sup>

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<sup>3</sup> Seaborg E, About Face, Endocrine News 2014 (May) 16-19.

<sup>4</sup> American Psychiatric Association. *Diagnostic and Statistical Manual of Mental Disorders*. 5th ed; 2013:451-459.

26. John Money played a prominent role in the early development of gender theory and transgenderism. He understood gender to be “the social performance indicative of an internal sexed identity.”<sup>5</sup> He joined the Johns Hopkins faculty in 1951 specifically to have access to children diagnosed with DSD, hoping to prove his theory that gender was arbitrary and fluid.

27. Money experimented with DSD infants by assigning them to the opposite biological sex through surgical revision, counseling, and hormonal manipulation during puberty. His mode of operation was to have a theory and then experiment with patients to see how his theory worked. This kind of endeavor does not anticipate or prevent adverse outcomes and is the antithesis of ethical science. Money never submitted his research proposals for review; today, Institutional Review Boards (IRBs) serve to rigorously review proposed clinical research protocols to prevent all potential and real harm to patients.

28. Because of his experience with infants, Money initially garnered support from endocrine colleagues and surgical colleagues, and Johns Hopkins became a renowned center for care of patients with DSD in the 1970s, garnering referrals from around the world. Follow-up studies on these infants later showed, however, that altering their natal sexual identity via social intervention could lead to severe psychological harm. Clinical case reports of children with DSD have revealed that gender identity is indeed biologically influenced though not immune to environmental input.<sup>6</sup>

29. Meanwhile Money had expanded into the field of adult patients with persistent gender identity disorder. This very small group of patients chose voluntarily, as adults, to enter a very precise protocol which began with living socially as the opposite sex for a year, eventually receiving hormonal therapy to change their physical appearance to some extent. The final step

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<sup>5</sup> Jeffreys, Sheila. *Gender Hurts: A feminist analysis of the politics of transgendersim*. Routledge. 2014 (p. 27).

<sup>6</sup> Whitehead, N. *My Genes Made Me Do It*. Chapter 5.

was surgical revision of the body structures that would otherwise be at odds with their desired gender. This small group of patients was followed for a number of years past their final surgical procedures and required continuous counseling. These patients expressed some degree of subjective satisfaction, but showed no objective improvement in overall wellbeing.<sup>7</sup>

30. The legacy of John Money fell into disrepute and the transsexual treatment program at Johns Hopkin was closed in the 1980s based on the lack of evidence that this protocol produced an effective cure.

### **Etiology of Gender Disorders**

31. Transgender affirming professionals claim transgender individuals have a "feminized brain" trapped in a male body at birth and vice versa based upon various brain studies. Diffusion-weighted MRI scans have demonstrated that the pubertal testosterone surge in boys increases white matter volume. A study by Rametti and colleagues found that the white matter microstructure of the brains of female-to-male (FtM) transsexual adults, who had not begun testosterone treatment, more closely resembled that of men than that of women.<sup>8</sup> Other diffusion-weighted MRI studies have concluded that the white matter microstructure in both FtM and male-to-female (MtF) transsexuals falls halfway between that of genetic females and males.<sup>9</sup> These studies, however, are of limited clinical significance due to the small number of subjects and failure to account for neuroplasticity.

32. Neuroplasticity is the well-established phenomenon in which long-term behavior alters brain microstructure. For example, the MRI scans of experienced cab drivers in London are distinctly different from those of non-cab drivers, and the changes noted are dependent on the

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<sup>7</sup> Meyer J.K. and Reter D. Sex Reassignment Follow-up . Arch. Gen. Psychiatry 36:1010-1015, 1979.

<sup>8</sup> Rametti G, Carrillo B, Gomez-Gil E, et al. White matter microstructure in female to male transsexuals before cross-sex hormonal treatment. A diffusion tensor imaging study. *J Psychiatr Res* 2011;45:199-204.

<sup>9</sup> Kranz GS, Hahn A, Kaufmann U, et al. White matter microstructure in transsexuals and controls investigated b diffusion tensor imaging. *J Neurosci* 2014;34(46):15466-15475.

years of experience.<sup>10</sup> There is no evidence that people are born with brain microstructures that are forever unalterable, but there is significant evidence that experience changes brain microstructure.<sup>11, 12</sup> Therefore, any transgender brain differences would more likely be the result of transgender behavior than its cause.

33. Furthermore, infants' brains are imprinted prenatally by their own endogenous sex hormones, which are secreted from their gonads beginning at approximately eight weeks' gestation.<sup>13, 14, 15</sup> There are no published studies documenting MRI-verified differences in the brains of gender-disordered children or adolescents. The DSD guidelines also specifically state that current MRI technology cannot be used to identify those patients who should be raised as males or raised as females.<sup>16</sup>

34. Behavior geneticists have known for decades that while genes and hormones influence behavior, they do not hard-wire a person to think, feel, or behave in a particular way. The science of epigenetics has established that genes are not analogous to rigid "blueprints" for behavior. Rather, humans "develop traits through the dynamic process of gene-environment interaction. ... [genes alone] don't determine who we are."<sup>17</sup>

35. Regarding transgenderism, twin studies of adults prove definitively that prenatal genetic and hormone influence is minimal. The largest twin study of transgender adults found that only

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<sup>10</sup> Maguire EA et al, Navigation-related structural change in the hippocampi of taxi drivers, *PNAS* 2000;97:4398-4403.

<sup>11</sup> Gu J, Kanai R. What contributes to individual differences in brain structure? *Front Hum Neurosci* 2014;8:262.

<sup>12</sup> Sale A, Berardi N, Maffei L, Environment and Brain Plasticity: Towards an Endogenous Pharmacotherapy, *Physiol Rev* 2014; 94: 189 –234.

<sup>13</sup> Reyes FI, Winter JS, Faiman C. Studies on human sexual development fetal gonadal and adrenal sex steroids. *J Clin Endocrinol Metab* 1973; 37(1):74-78.

<sup>14</sup> Lombardo M. Fetal testosterone influences sexually dimorphic gray matter in the human brain. *J Neurosci* 2012; 32:674-680.

<sup>15</sup> Campano A. [ed]. Geneva Foundation for Medical Education and Research. *Human Sexual Differentiation*; 2016. Available at: [www.gfmer.ch/Books/Reproductive\\_health/Human\\_sexual\\_differentiation.html](http://www.gfmer.ch/Books/Reproductive_health/Human_sexual_differentiation.html). Accessed May 11, 2016.

<sup>16</sup> Lee PA et al, Consensus Statement on Management of Intersex Disorders, *Pediatrics* 2006; 118 e488-e500.

<sup>17</sup> Shenk, D. *The Genius in All of Us: Why everything you've been told about genetics, talent, and IQ is wrong.* (2010) New York, NY: Doubleday; p. 18.

20 percent of identical twins were both transgender-identified.<sup>18</sup> Since identical twins contain 100 percent of the same DNA from conception and develop in exactly the same prenatal environment exposed to the same prenatal hormones, if genes and/or prenatal hormones contributed to a significant degree to transgenderism, the concordance rates would be close to 100 percent. Instead, 80 percent of identical twin pairs were discordant. This would indicate that at least 80 percent of what contributes to transgenderism as an adult in one co-twin consists of one or more non-shared post-natal experiences including but not limited to non-shared family experiences.

36. These findings also mean that persistent GD is due predominately to the impact of non-shared environmental influences. These studies provide compelling evidence that discordant gender is not hard-wired genetically.

### **Gender Dysphoria vs. Gender Identity Disorder**

37. Up until the recent revision of the DMS-IV criteria, the American Psychological Association (APA) held that Gender Identity Disorder (GID) was the mental disorder described as a discordance between the natal sex and the gender identity of the patient.

38. Dr. Kenneth Zucker, who is a highly respected clinician and researcher from Toronto carried on evaluation and treatment of GID patients for forty years. His works, widely published, found that the vast majority of boys and girls with GID identify with their biological sex by the time they emerge from puberty to adulthood, through either watchful waiting or family and individual counseling.<sup>19</sup> His results were mirrored in studies from Europe.<sup>20, 21</sup>

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<sup>18</sup> Diamond, M. "Transsexuality Among Twins: identity concordance, transition, rearing, and orientation." *International Journal of Transgenderism*, 14(1), 24–38.

<sup>19</sup> Zucker KJ, Gender Identity Disorder, in Rutter M, Taylor EA, editors. *Child and Adolescent psychiatry*, 4<sup>th</sup> ed, Malden Mass: Blackwell, 2006: 737-753.

<sup>20</sup> Wallien MS, Cohen-Kettenis PT. Psychosexual outcome of gender-dysphoric children. *J AM Academy Child Adolescent Psychiatry* 2008; 47:1413-1423.

39. When the DMS-V revision of the diagnosis of GID was proposed by the APA committee responsible for revision, Dr. Zucker strongly opposed the change to the term Gender Dysphoria, which purposefully removed gender discordance as a mental disorder apart from the presence of significant emotional distress. With this revision, Gender Dysphoria describes the mental anguish which is experienced by the gender discordant patient.

40. The theory that societal rejection is the root cause of Gender dysphoria was validly questioned by a study from Sweden which showed that the dysphoria was not eliminated by hormones and sex reassignment surgery even with widespread societal acceptance.<sup>22</sup>

### **Treatment of Gender Dysphoria**

41. The treatment of the child and adolescent with gender discordance and accompanying gender dysphoria should include an in-depth evaluation of the child and family dynamics. This provides a basis on which to proceed with psychologic therapy. The entire biologic and social family should be involved in psychological therapy designed to assist the patient, if at all possible, to align gender identity with natal sex. Psychological support by competent counselors with an intent of resolving the gender conflict should be provided as long as the patient continues to suffer emotionally. Given the high degree of eventual desistance of gender discordance/dysphoria by the end of puberty, it would be ethical and logical to counsel the patient and family to rear the child in conformity with natal sex.

42. There should be no interruption of natural puberty. Natural pubertal maturation in accordance with one's natal sex is not a disease. It is designed to carry a malleable, immature individual forward to be a healthy adult capable of conceiving their own progeny. It affects

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<sup>21</sup> Schechner T. Gender Identity Disorder: A Literature Review from a Developmental Perspective. *Isr J Psychiatry Related Sci* 2010; 47:42-48.

<sup>22</sup> Dhejne, Cecilia et al. Long-term Follow- up of transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden *PLoS One* February 2011 Vol 6 Issue 2, e16885

physical changes, some of them painful, unique to the natal sex to reflect the laws of nature. Interruption of puberty has been reserved for children who begin puberty at an age much younger than normal in an effort to preserve final height potential and avoid the social consequences of precocious maturation. There are a number of physical changes that are a consequence of normally-timed puberty which could be classified as disadvantageous: changes in body proportions can alter success with dance and gymnastics; acne can be severe and disfiguring; a boy soprano can suddenly hardly carry a tune. It has not been the ethical standard of care to stop puberty so that these changes can be circumvented.

43. Erikson described the stage of adolescence as "Identity versus Role Confusion" during which the teen works at developing a sense of self by testing roles then integrating them into a single identity.<sup>23</sup> This process is often unpleasant regardless of the presence or absence of gender identity conflicts. The major benefit of enduring puberty in a GD patient is that it provides a strong likelihood of alignment of his gender identity with his natal sex. There is no doubt that these patients need compassionate care to get them through their innate pubertal changes. The light at the end of the tunnel for them is the proven scientific evidence that 80% - 95% of pre-pubertal children with GD will come to identify with their biological sex by late adolescence. Some will require lifelong supportive counseling, and others will not.<sup>24</sup>

44. Intervention at a young age with gonadotropin releasing hormone analogs (often referred to as puberty blockers) to either stop puberty early on or prevent it from starting before it naturally occurs is suggested by guidelines developed by WPATH without scientific basis.

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<sup>23</sup> Erikson, E. H. (1993). *Childhood and society*. WW Norton & Company. Erikson, E. H. (1993). *Childhood and society*. WW Norton & Company.

<sup>24</sup> Zucker KJ, Gender Identity Disorder, in Rutter M, Taylor EA, editors. *Child and Adolescent psychiatry*, 4<sup>th</sup> ed, Malden Mass: Blackwell, 2006: 737-753.

There is evidence that bone mineral density is irreversibly decreased if puberty blockers are used during the years of adolescence.<sup>25</sup>

45. To treat puberty as a pathologic state of health that should be avoided by using puberty blockers (GnRH analogs) is to interrupt a major necessary physiologic transformation at a critical age when such changes can effectively happen. We have definite evidence of the need for estrogen in females to store calcium in their skeleton in their teen years. That physiologic event can't be put off successfully to a later date. It is very difficult to imagine ethical controlled clinical trials that could elucidate the effects of delaying puberty until the age of consent (18 years). The use of cross-sex hormones during this same time frame has no basis of safety and efficacy. The use of such treatment in adults raises scientifically valid concerns that were amply expressed in the 2009 Endocrine Society Guidelines on Transgender treatment.

46. The next step in WPATH-recommended intervention is to use cross-sex hormone therapy during the time when the patient would naturally be experiencing endogenous pubertal changes. This too is not based on scientifically proven theories. The use of cross-sex hormones can cause permanent infertility.<sup>26</sup>

47. The final recommended step is so-called "sex reassignment surgery," which can include surgical removal of the breasts in natal females, or removal of the penis and scrotum in natal males. Each of these steps have adverse outcomes, some reversible and others not. Mastectomies leave scars, and there is great difficulty in creating a functional vaginal-like orifice, and certainly no success in creating an innervated erectile penis where none existed previously. Sex reassignment surgery is, by nature, permanent.

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<sup>25</sup> *J Clin Endo Metab* 2008;93:190-195.

<sup>26</sup> Hembree WC et al, Endocrine Treatment of Transsexual Persons: and Endocrine Society Clinical Practice Guideline, *J Clin Endo Metab*2009; 94:3132-3154.

## Science vs. Pseudoscience

48. The advent of “centers of excellence” for gender-disordered patients<sup>27</sup> combined with sociologic agenda in academia has created the impression that there is scientific validity to gender discordance as a variation of normal. There has been a flurry of non-peer-reviewed articles in journals and newsletters circulated to general pediatricians that promote the ideology of transgenderism without scientific support.<sup>28, 29, 30, 31</sup> Mainstream clinicians and scientists who consider gender discordance to be a mental disorder have been deliberately excluded in the makeup of the steering committees of academic and medical professional societies which are promulgating guidelines that were previously unheard of.

49. The Endocrine Society published such a document in 2009.<sup>32</sup> Its recommendations promoted the use of psychological evaluation, counseling, blocking of pubertal maturation at the onset of puberty, the subsequent use of cross- sex hormones, and possible surgical intervention at the age of consent. Of the 22 recommendations contained in the document, only three were supported by scientific proof. These three warned of potential adverse effects of hormonal manipulation. The remaining 19 recommendations were nearly evenly split into a group that was based on very limited scientific evidence and a group that was based on absolutely no scientific evidence at all. The response to these guidelines was an exponential burgeoning of Gender Identity Clinics in the United States from three to over forty-five in a period of seven years.

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<sup>27</sup> Hsieh S and Leninger J, Resource List: Clinical Care Programs for Gender-Nonconforming Children and Adolescents, *Pediatr Ann* 2014;43:238-244.

<sup>28</sup> Prager, LM, A boy who wants to be a girl, *Contemporary Pediatrics* 2008; 25:56-58.

<sup>29</sup> Garafolo R Tipping points in caring for the gender-non-conforming child and adolescent, *Pediatr Ann* 2014; 43:227-229.

<sup>30</sup> Steever J, Cross-gender Hormone therapy in adolescents, *Pediatr Ann* 2014;43: e-138-e-144.

<sup>31</sup> Simons LK et al, Understanding gender variance in Children and Adolescents, *Pediatr Ann* 2014;43:e-126-e131.

<sup>32</sup> Hembree WC et al, Endocrine Treatment of Transsexual Persons: and Endocrine Society Clinical Practice Guideline, *J Clin Endo Metab* 2009; 94:3132-3154.

50. What is missing is sound science to show that gender identity discordance is not a delusional state. What is happening is reminiscent of the now-discredited efforts of John Money. There is an ongoing multicenter study, funded by the NIH, which will be empirically starting gender discordant children and adolescents, all below the age of consent, on treatment with puberty blockers and cross-sex hormone treatments. There is no control group in this study.

51. The gender discordant individual is given protected civil rights as if the discordant gender identity is innate, when there is no credible science to prove such, and in fact, much credible science to refute it. Recognized experts in the field, such as Kenneth Zucker, are banned from providing psychotherapy to assist youth in aligning their gender identity with their biological sex.

52. The norm for human development is for one's thoughts to align with physical reality, and for one's gender identity to align with one's biologic sex. Gender identity that does not match natal sex is a mental disorder, previously called Gender Identity Disorder.

53. WPATH is an agenda-driven advocacy organization whose membership consists of anyone who has an interest in the transgender social and political agenda. There are no requirements for specialty training or certification. Its guidelines are not scientifically supported.

54. WPATH promotes "expert witnesses" and provides them with a bibliography replete with self-confirming references to opinion pieces and anecdotal case reports along with clinical case reviews with inherent selection bias.

55. WPATH's "peer-reviewed" journal is not reviewed by anyone with an opinion that is not in keeping with the philosophy of the organization itself. WPATH pressured the authors of the Swedish study to retract their results clearly showing persistent mental health problems among transgendered adults even after WPATH-recommended transition treatment. When Dr. Zucker,

the then-editor of the journal that published the study, refused to allow the authors do so, he was targeted by activists and his Toronto clinic was shut down by the Canadian government shortly thereafter.

56. Laws banning treatment designed to support gender resolution appear aimed at a fear that allowing the gender discordant individual to return to their chromosomal sexual identity will do harm, when what we know is that he or she will most likely assume a role as a heterosexual or homosexual adult living in and identifying with the body given them by nature.

### **Conclusion**

57. Young children and adolescents are vulnerable to recruitment to an ideology of gender fluidity, which is theorized by various agenda-driven health professionals and groups, and which is amplified on the internet by profoundly unscientific websites and blogs. After my fellowship completion, it was not until 16 years later that I encountered a patient with Gender Identity Disorder. At that time, I consulted all of the mentors in pediatric endocrinology across the country that I respected, and none of them could give me a suggestion of where to send the patient for valid psychological care. Since the flurry of published articles lacking in valid science, and the emergence of transgender clinics across the nation in recent years, I have seen an uptick in case referrals. Based on the proven results of Kenneth Zucker, I seek out and send these patients to competent mental health providers who thoroughly assess the family psychological environment, treat any psychological comorbidities in the child, and support the child through puberty. This course of treatment offers patients the best hope of recovery and a healthy, productive life.

58. Pursuant to 28 U.S.C § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: 12 August, 2016

Signed:   
Quentin L. Van Meter, M.D.

**QUENTIN L. VAN METER, M.D.  
1800 Howell Mill Road NW, Suite 475  
Atlanta, Georgia 30318**

**updated 11 July 2016  
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**PERSONAL**

Home Address: 1080 Peachtree St. NE #3507, Atlanta, GA 30309  
Home Phone: (404) 963-5618  
Date of Birth: September 13, 1947  
Place of Birth: Laramie, Wyoming  
Citizenship: USA

**EDUCATION:**

Undergraduate: College of William & Mary, 1969  
B.S. – 1969  
Medical School: Medical College of Virginia, 1973  
M.D. – 1973

**CLINICAL TRAINING:**

Institution: The University of California, San Francisco  
Hospital: Naval Regional Medical Center, Oakland  
Position: Pediatric Intern – 1973 – 1974  
Pediatric Resident – 1974 – 1976  
  
Institution: Johns Hopkins University  
Hospital: Johns Hopkins Hospital  
Position: Fellow, Pediatric Endocrinology 1978 – 1980  
Fellowship Program Director: Claude Migeon, M.D.  
  
Current Position: Pediatric Endocrinologist  
Van Meter Pediatric Endocrinology, P.C.  
1800 Howell Mill Road, Suite 475  
Atlanta, Georgia 30318

**PROFESSIONAL CERTIFICATION & SOCIETIES:**

Diplomate, National Board of Medical Examiners, 1974

American Board of Pediatrics, certified in general pediatrics, 1978, sub-board certified in Pediatric Endocrinology, 1983

Fellow: American Academy of Pediatrics, 1975 -2014  
President, Uniformed Services West Chapter, 1987 – 1990  
District VIII member, AAP Committee on Awards for Excellence in Research, 1990-1994  
Editor, The Georgia Pediatrician, 1994 – 1998

Chairman, Georgia Chapter Legislative Committee, 1996 – 2006

Fellow: The American College of Pediatricians, 2007 – present  
Member of the Board of Directors, 2008- present  
Vice President/President Elect, 2015-present

Member: Pediatric Endocrine Society, 1989 – present

Member: American Diabetes Association Professional Section, 1988 – present

Member: Endocrine Society, 1994-present

Member: Southern Pediatric Endocrine Society, 1992 – Present

Member: American Association of Clinical Endocrinologists, 2005 – present

Licensure: Georgia, #34734

#### FACULTY POSITIONS:

Institution: Morehouse School of Medicine  
Position: Associate Clinical Professor, Pediatrics, 2004 – present

Institution: Emory University School of Medicine  
Position: Associate Adjunct Professor, Pediatrics, 1991 – present

Institution: University of California, San Francisco  
Position: Associate Clinical Professor, Pediatrics, 1989 – 1991

Institution: University of California, San Diego, School of Medicine  
Position: Assistant Clinical Professor, Pediatrics, 1980 – 1986

Institution: LSU School of Medicine, Clinical Instructor, Pediatrics, 1977 – 1978

#### MILITARY SERVICE:

Commission: Medical Corps, United States Navy, August 1971  
Rank: Captain, retired  
Duty Stations: Health Professional Scholarship Student, 1971 – 1974

Intern and Resident, Pediatrics, Naval Regional Medical Center, Oakland, 1973 – 1976

Staff Pediatrician, Naval Regional Medical Center, Oakland, 1976

Quentin L. Van Meter, M.D.

Staff Pediatrician, Naval Regional Medical Center,  
New Orleans, 1976 – 1978

Full time out-service fellow in Pediatric Endocrinology,  
Johns Hopkins Hospital, 1978 – 1980

Staff Pediatric Endocrinologist, Naval Hospital San Diego,  
1980 – 1986

Chairman and Director, Residency Training, Department of Pediatrics  
Naval Hospital Oakland, 1986 – 1991

#### OTHER PROFESSIONAL ACTIVITIES:

Consultant, Pediatric Endocrinology,  
Nellis Air Force Base Hospital, Las Vegas, Nevada  
1981 – 1991

Consultant, Pediatric Endocrinology,  
Naval Hospital Lemoore, CA  
1986 – 1991

Consultant, Pediatric Endocrinology,  
Letterman Army Medical Center, Presidio of San Francisco, CA  
1990 – 1991

Consulting Endocrinologist,  
Columbus Regional Medical Center, Columbus, GA  
1991 – 1994

Pediatrician and Pediatric Endocrinologist, partner  
Fayette Medical Clinic  
Peachtree City, Georgia 30269  
September 1991 – October 2003

Pediatric Endocrinologist Peer Reviewer                    2006 – present  
MCMC, LLC, Boston, MA  
IMEDECS, Lansdale PA

Speaker's Bureau  
Novo Nordisk, Pfizer, Endo, Abbvie  
AAP Eqipp course on Growth- development committee- 2012

PUBLICATIONS: (Articles in Peer Reviewed Journals)

- Riddick, JR, Flora R., Van Meter, QL:  
“Computerized Preparation of Two-Way Analysis of Variance Control Charts for Clinical Chemistry,” Clinical Chemistry, 18:250, March 1972.
- Van Meter, QL, Gareis FJ, Hayes, JW, Wilson, CB:  
“Galactorrhea in a 12 Year Old Boy with Chromophobe Adenoma,” J. Pediatrics 90:756, May 1977.
- Plotnick, LP, Van Meter, QL, Kowarski, AA, “Human Growth Hormone Treatment of Children with Growth Failure and Normal Growth Hormone Levels by Immunoassay: Lack of Correlation with Somatomedin Generation: Pediatrics 71:324, March 1983.
- Brawley, RW, Van Meter, QL, “Mebendazole Ascaris Migration,” W.J. Med, 145:514015, October 1986.
- Van Meter, QL, “The Role of the Primary Care Physician in Caring for Patients with Type-1 Diabetes,” Comp Ther 1998; 24(2):93–101
- Midyett LK, Rogol AD, Van Meter QL, Frane J, and Bright GM, “Recombinant Insulin-Like Growth factor (IGF)-I Treatment in Short Children with Low IGF-I Levels: First-Year Results from a Randomized Clinical Trial,” J Clin Endocrinol Metab, 2010;95:611–619.

ABSTRACTS:

- Van Meter, Q L, & Lee, PA: “Evaluation of Puberty in Male and Female Patients with Noonan Syndrome,” Pediatric Research 14:485, 1980.
- Van Meter, QL, et al: “Characterization of Pituitary Function in Double Bolus GnRH Infusion as a Diagnostic Tool,” Pediatric Research 32:111, 1984.
- Van Meter, QL, Felix, SD, Lin, FL: “Evaluation of the Pituitary-Adrenal Axis in Patients Treated with nasal Beclomethasone,” (Presented at the 1991 Annual Meeting of the Endocrine Society and the 6<sup>th</sup> Annual Naval Academic Research Competition, Bethesda, MD, 17 May, 1991).
- Rogol AD Midyett LK Van Meter Q, Frane J, Baily J, and Bright GM, Recombinant Human IGF-1 for Children with Primary IGF-1 Deficiency (IGFD): Safety Data from Ongoing Clinical Trials (presented at the PAS 2007, Toronto).

Quentin L. Van Meter, M.D.

Van Meter Q, Midyett LK, Deeb L et al, Prevalence of primary IGFD among untreated children with short stature in a prospective, multicenter study (Poster POO715) ICE Rio de Janeiro, Brazil 2008.

G.M. Bright<sup>1</sup>, W.V.Moore<sup>2</sup>, J.Nguyen<sup>3</sup>, G. Kletter<sup>4</sup>, B. S. Miller<sup>5</sup>, Q. L. Van Meter<sup>6</sup>, E. Humphriss<sup>1</sup>, J.A. Moore<sup>7</sup> and J.L. Cleland<sup>1</sup> Results of a Phase 1b Study of a new long-acting human growth hormone (VRS-317) in pediatric growth hormone deficiency (PGHD). PAS 2014 May 2014

Van Meter Q, Welstead B and Low J, Characteristics of a Population of Obese Children and Adolescents: Suggesting a New Paradigm, presented at ESPE meeting, Dublin 2014.

**ADDITIONAL PRESENTATIONS/LECTURES:**

Pediatrics Update, CME Associates, San Diego – Orlando Annual Conferences: Lectures on Pediatric Endocrine Subjects – 1986 – 2001. Course Moderator, 1997, 1998, 1999, 2000, 2001

Endocrine and Gastroenterology Update, CME Associates, Maui HI Nov 2001, Lecturer and Course Moderator

Lecture on Panhypopituitarism, Pharmacia Conference, Nashville TN April 2002.

Family Medicine Review Course, Orlando, FL, 1992 – 2001

Pediatric Grand Rounds, Tanner Medical Center, October 1997

Pediatric Grand Rounds, Hughes Spaulding Children's Hospital, September, 2003

Pediatrics in the Park, Fall CME meeting for the Georgia Chapter of the American Academy of Pediatrics, November 2003

Pediatric Grand Rounds, Columbus Regional Medical Center, January 2004

Frontiers in Pediatrics CME Course, sponsored by the Atlanta Children's Health Network, Atlanta, March 2004.

Pediatric Grand Rounds, Eggleston Children's Hospital, May 2004.

Sue Schley Matthews Pediatric Conference, Columbus Regional Medical Center, September 2004

56<sup>th</sup> Annual Scientific Assembly and Exhibition of the Georgia Academy of Family Physicians, Nov 2004

Program Co-Chairman: Southern Pediatric Endocrine Society Annual meeting, Nov 2004

Presentations on Diabetes, Growth Failure, and Thyroid Disease to the Postgraduate Pediatric Nurse Practitioner Program, Georgia State University, Nov 2005, June 2006, May 2007

Issues in Medicine, US Medical Congress Conference and Exhibition, Las Vegas, meeting planner and speaker, June, 2006

CME Presentations for the Georgia Chapter of the American Academy of Pediatrics Spring and Fall Meetings 2004-present

Pediatric Grand Rounds, Columbus Regional Medical Center, Columbus, GA, 2011-present

Human Growth Foundation Regional CME Conference, Atlanta GA  
March 2013, February 2014 Columbus Georgia

Audio Digest Pediatrics - ① v. 41, no. 4; ② v. 41, no. 20; ③ v. 43, no. 17

Audio Digest Family Practice - ① v. 42, no. 5; ② v. 44, no. 11; ③ v. 44, no. 44; ④ v. 45, no 15

Audio Digest Otolaryngology - ① v. 32, no. 14

#### CURRENT HOSPITAL APPOINTMENTS:

Eggleston/Scottish Rite Children's Hospitals, active staff, Pediatric Endocrinology

#### PAST AND CURRENT CLINICAL RESEARCH:

2006	Sanofi-Aventis HMR1964D/3001	study completed 2007
2006	Tercica MS301-	study completed 2008
2007	Tercica MS310-	study completed 2008
2007	Tercica MS306-	study completed 2010
2007	Tercica MS316-	study completed 2012
2008	EMD Serono 28358	study completed 2009
2012	Versartis 12VR2	study completed 2014
2012	Debiopharm 8206-CPP-301	study started July 2012
2013	Versartis 13 VR3	study started Dec 2013
2014	Novo-Nordisk Elipse	study started 2014
2015	Versartis 14 VR4	study started September 2015

# EXHIBIT J

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA**

JOAQUÍN CARCAÑO *et al.*,

Plaintiffs,

v.

CASE NO. 1:16-CV-00236-TDS-JEP

PATRICK MCCRORY *et al.*,

Defendants

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UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO. 1:16-CV-00425-TDS-JEP

STATE OF NORTH CAROLINA *et al.*,

Defendants

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**DECLARATION OF ALLAN M. JOSEPHSON, M.D.**

1. I have been retained by counsel for Defendants as an expert witness in connection with the above-captioned litigation. I have actual knowledge of the matters stated in this declaration. My professional background, experience, and publications are detailed in my curriculum vitae, a true and accurate copy which is attached as Exhibit A to this declaration.
2. I received my medical degree (M.D.) from the University of Alberta in 1976, after which I did residencies in psychiatry and child and adolescent psychiatry at the University of Minnesota. I served on the faculties of medicine at the University of Minnesota and Medical College of Georgia before assuming my current position at the University of Louisville.

3. I am currently Professor and Chief of Child, Adolescent and Family Psychiatry at the University of Louisville School Of Medicine, where I also hold position of CEO of the Bingham Clinic.

4. I am board certified in psychiatry and child and adolescent psychiatry. I have been licensed to practice medicine in the past in Minnesota and Georgia and in Kentucky since 2003.

5. In my career I have evaluated, treated, and consulted with approximately 35 transgender young people. These contacts have been among approximately 15,000 patients I have seen with psychiatric concerns in outpatient, inpatient, medical wards, residential treatment centers, schools, detention centers, and private psychotherapy offices. Many of these evaluations included assessments of the child's family.

6. I am a member of the American Psychiatric Association (Distinguished Life Fellow), American Academy of Child and Adolescent Psychiatry, Group for the Advancement of Psychiatry, American Medical Association, and the American College of Psychiatrists.

7. My opinions as detailed in this declaration are based upon my knowledge and direct professional experience in the subject matters discussed. The materials that I have relied upon are the same types of materials that other experts in my field rely upon when forming opinions. A list of sources relied upon is attached as Exhibit B to this declaration.

8. In the past four years I have testified as an expert for a trial or deposition in the following matters: *Bruscato, Vito v. Gwinnett-Rockdale-Newton Community Service Board, Superior Court of Gwinnett County State of Georgia*, Civil Action No. 04-A-5858-3 (Dekalb County Superior Court); *Landry, Lisa and Landry Michael v. Damond Logsdon, Ph.D.*, Civil Action No. 14EV002151F (Fulton County Superior Court).

9. I am being compensated at an hourly rate for actual time devoted, at the rate of \$350 per hour. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I provide.

### **Sex and Gender Defined**

10. Sex is the term used to categorize individuals on the basis of their ability to procreate, and thus continue the human race. It is an objective fact based on the science of genetics and leads to a binary recognition of all humans, male and female. The chromosomal complement is XX for female and XY for male. It is a binary organization of humankind and it is fixed/immutable.

11. In disease there are extremely rare variations of genetic expression referred to as intersex conditions or disorders of sexual development (DSD), such as congenital adrenal hyperplasia. These diseases can lead to difficulty identifying the correct sex at birth due to ambiguous genitalia.

12. Gender (often used interchangeably with gender identity) refers to a person's basic sense or awareness of themselves as male or female. It includes the knowledge that one is male or female and an emotional appraisal of this knowledge. Gender is a psychological construct and by definition cannot be present at birth, but rather evolves throughout development. It is culturally and societally influenced.

### **Gender Development**

13. The processes of human development are sequential, moving from the simple to the complex. Each stage of development is related to the previous one and prepares for the successive one.

14. Over decades of psychological work and research, the tasks of the following general developmental stages are accepted. The healthy child must learn to:

- trust other human beings;
- accept the boundary between self and others, especially the boundary of limits on one's behavior;
- socialize and relate to others;
- acquire specific facts and skills to be applied to life experience (e.g., academic tasks);
- develop a sense of self or self-identity: understanding what activities an individual is suited for, including male and female roles.

15. Children and adolescents have individual temperaments that are shaped into identity by environmental experience, typically family experiences. The external inputs from family and others become consolidated into an internal sense of self.

16. Whereas sex is a biological fact rooted in genetics, gender is a psychological construct or perception which begins with the fact of sex and then is developed through the experiences of life. Thus, efforts to determine or assign gender at the time of birth are unfounded and by definition impossible.

17. Gender identity refers to an individual's personal sense of self as male or female. In the vast majority of cases, it is concordant with an individual's biological sex and remains stable over the lifetime. It initially develops early in life, around the ages 3 to 4, and is continually shaped and modified by interactions with the environment, typically family and parental influences.

18. The concept of gender identity first developed from the work of clinicians in the 1950s working with children born with disorders of sexual development (i.e., physical inspection of the genitalia at the time of birth made it difficult to determine if a child was male or female).

## **Gender Incongruity**

19. In the vast majority of individuals, gender identity, generally established in childhood, is consistent with biological sex and remains stable.

20. Gender conformity exists for most children with play and playmate preferences. Rarely some children exhibit evidence of gender non-conformity. Gender non-conformity refers to behaviors or preferences that do not conform to those typical of the child's sex. Gender non-conformity does not necessarily indicate psychological pathology; there are healthy, well-adjusted boys who like to play with dolls and girls who like to climb trees.

21. Gender Dysphoria is a diagnostic term that characterizes a person's sense of discomfort or unease about his or her status as a male or female. The diagnostic criteria for gender dysphoria in children and adolescents are set forth in DSM 5 (302.85) as follows:

A. A marked incongruence between one's experienced/expressed gender and assigned gender, of at least 6 months duration, as manifested by at least two of the following:

1. A marked incongruence between one's experienced/expressed gender and primary and/or secondary sex characteristics (or in young adolescents, the anticipated sex characteristics).
2. A strong desire to be rid of one's primary/and or secondary sex characteristics because of a marked incongruence with one's experienced/expressed gender (or in young adolescents, a desire to prevent the development of the anticipated secondary sex characteristics).
3. A strong desire for the primary and/or secondary sex characteristics of the other gender.
4. A strong desire to be of the other gender (or some alternative gender different from one's assigned gender).
5. A strong desire to be treated as the other gender (or some alternative gender different from one's assigned gender).
6. A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one's assigned gender).

B. The condition is associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning.

22. Prior to DSM-5 (the psychiatric diagnostic manual), the diagnosis of Gender Identity Disorder was used to describe individuals with gender incongruence. This was unacceptable to some and became controversial. The key area of controversy was over the degree to which the diagnostic criteria for gender identity disorder reflected an illness or social bias against gender incongruence.

23. This controversy led to the decision to remove “disorder” as a definitional component of the diagnosis of gender dysphoria. It remained a disorder only for the affects (distress) associated with the experience of gender discordance (commonly known as transgenderism). These affects were primarily seen as deriving from bias and social ostracism by proponents of the revision

24. Changes in diagnostic nomenclature in this area were not initiated through the result of scientific information but rather the result of cultural changes fueling political interest groups within professional organizations. The diagnosis remained in the current diagnostic manual in part to facilitate continued access to mental health care.

25. Among psychiatrists, it remains a matter of debate whether gender incongruence reflects a psychopathology or a variant of normal human functioning with concomitant psychiatric distress.

26. Longitudinal studies of pre-pubertal children, including those without mental health treatment, indicate that for the majority of children studied, cross-gender wishes or desires typically fade over time and do not persist into adulthood. Studies range from approximately 65% to 95% of youth no longer being gender incongruent by late adolescence.

27. When gender discordance continues well into adolescence, it is more likely to continue into adulthood.

28. When gender discordance remits, it is thought to be due to increased cognitive flexibility, meaning that as children mature they can realize they can still be a boy or girl despite their behavior varying from conventional gender roles and norms.
29. The etiology of transgender behavior is not definitively known, but almost all psychiatric disorders are heavily influenced by the early years of development.
30. Putative biological factors have included genetics, differences in central nervous system lateralization and abnormal EEG findings, but findings have been inconsistent and inconclusive. It should be noted that these findings are of a correlational nature with causation unproven. At the present time, research has been unable to identify a clear biological anomaly associated with gender discordance. What can be said is biological influences, as in most psychiatric disorders, are likely influential but not all determinant.
31. Healthy identification with (i.e., “becoming like”) the same-sex parent is an important part of child development. When this does not take place, individual parental factors and parent relationship factors are typically responsible and the impact on a child’s developing identity is significant. For example, a major impact of father absence and father psychopathology is seen in many adolescent clinical problems. The extent to which it influences gender discordance is not known and is an area of needed research.
32. Familial psychopathology is common. Control studies have shown an increased incidence of parental psychopathology in boys with gender discordance although a causal relationship cannot be definitively established.
33. Gender incongruent youth typically have other problems, referred to in the literature as comorbidities—most often anxiety, depression and suicidal thinking. A recent large-scale study showed that children with gender dysphoria were much more likely to have self-harm ideation,

suicidal thinking, depression, overall significantly increased behavior problems and poor peer relations.

### **Treatment**

34. There is a paucity of research data on the treatment of gender discordance,, particularly in children and adolescents. There are no controlled studies assigning youth to either psychological intervention or medical intervention groups.

35. It is known that the majority of children and youth who identify as transgender will cease/desist by late adolescents with conservative treatment.

36. Children are not equipped psychologically to make many important life decisions and thus are gradually transitioned into making these decisions themselves – “the external becomes internal.”

37. It is an abdication of parental responsibility to allow a child to “decide for themselves” regarding key life decisions. On the other hand sensitivity, flexibility and wisdom are necessary in facilitating a trial-and-error approach as the child reaches the age of emancipation.

38. The consequences of a decision to change genders are dire and often permanent, and cannot be fully appreciated until young adulthood. These include social, medical, and psychiatric consequences. It is important for the parents to provide empathic guidance to aid adolescent decision-making.

39. It is unlikely that most adolescents understand the effects of hormone treatments and potential effects on fertility.

40. Considering the dire risks of psychopathology, suicidal behavior, peer rejection, and the known risks of transition treatment and lifelong hormone use, including permanent sterility, combined with the likelihood that gender discordance will remit (desist) by the end of puberty, a

thorough exploration of contributing factors and empathic guidance in aligning gender with natal sex is indicated.

41. Children and adolescents should receive individual therapy to understand some of the factors that fuel the desire to become a member of the opposite sex and attempt to resolve any conflicts and problems rather than solely be affirmed in the belief that they were born in the “wrong body.”

42. In psychiatry, a delusion is defined as a fixed, false belief which is held despite clear evidence to the contrary. In psychiatric practice, patients with the common diagnosis of anorexia nervosa have the false belief that they are overweight (“fat”) in spite of overwhelming evidence of their cachexia. Similarly, those who are gender incongruent believe they are of the opposite sex despite clear and overwhelming evidence to the contrary.

43. Parents should receive guidance/counseling to help a child feel more comfortable about being a girl or boy. This would include assisting the child in mastering basic cognitive concepts of gender, encouraging the development of same-sex friendships in areas where mutual interest can be identified, and empathic limit-setting on cross-gender behavior with the encouragement of gender-neutral or sex-typical behavior. It is important for parents to be sensitive to the child’s temperamental characteristics while structuring the child’s experience in planning and encouraging peer group encounters.

44. This approach has support in the clinical guidelines literature. However, there is a paucity of randomized, controlled treatment trials in the literature. Given this lack of evidence, the knowledge that the condition remits by young adulthood and the dire risks of a gender incongruence position, a conservative, development-enhancing therapeutic approach is indicated.

45. An assessment of family functioning, including assessment of parental psychopathology is indicated.

46. The adolescent must always be affirmed as a person but this does not imply an immediate rush to affirmation of a transgender adolescent choice before the issues are explored. This is consistent with parental approaches to all the major life decisions of adolescents and is a necessary parental executive function to counter adolescent cognitive impulsivity.

### **Conclusion**

47. As culture influences psychiatry more and more, there is increasing confusion between defending the rights of patients versus treating these patients. This is manifested in viewing gender dysphoria in terms of rights needing defending rather than a psychiatric condition needing compassionate and scientifically accurate treatment. This view does not serve our patients well.

48. Pursuant to 28 U.S.C § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: August 11, 2016

Signed: Allan M. Josephson, M.D.  
Allan M. Josephson, M.D.

## **Exhibit B**

### **Bibliography for Expert Allan M. Josephson, M.D.**

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Zucker K. et al. Psychopathology in the Parents of Boys with Gender Identity Disorder. J Am Acad Child Adolesc Psychiatry, 2003, 42:2-4.

## **CURRICULUM VITAE**

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### **PERSONAL**

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Home Address: 7903 Bent Pine Court  
Prospect, Ky. 40059

Home Telephone: 502-292-2816

Date of Birth: November 19, 1951

Place of Birth: Vancouver, British Columbia, Canada

Citizenship: United States (naturalized)

Marital Status: June 28, 1974  
Jerral Bauman Josephson

Children: Sarah (12/17/80)  
Matthew (7/20/83)  
Rachel (7/5/88)

## **EDUCATION**

- 1974                   B.M. Sc. (Psychology/Sociology), University of Alberta, Edmonton, Alberta, Canada  
1976                   M.D., University of Alberta, Edmonton, Alberta

## **POSTDOCTORAL TRAINING**

- 1976 - 1980           Resident in Psychiatry, Department of Psychiatry, University of Minnesota Medical School, Minneapolis, Minnesota  
1979 - 1980           Chief Resident, Department of Psychiatry, University of Minnesota  
1979 - 1981           Fellow in Child and Adolescent Psychiatry, Division of Child and Adolescent Psychiatry, University of Minnesota Medical School, Minneapolis, Minnesota

## **LICENSURE AND CERTIFICATION**

- 1976                   Licentiate of the Medical College of Canada  
1977                   National Board of Medical Examiners  
1978-1988           State of Minnesota Physicians and Surgeons  
1982                   American Board of Psychiatry and Neurology (#23615)  
1982                   Royal College of Physicians and Surgeons (Canada) in Psychiatry  
1983                   American Board of Psychiatry and Neurology in Child Psychiatry (#1739)  
1985-2003           State of Georgia Physicians and Surgeons License (#028019)  
2003                   State of Kentucky (#37853)

## **ACADEMIC APPOINTMENTS**

- 1981 - 1983           Instructor, Division of Child and Adolescent Psychiatry, Department of Psychiatry, University of Minnesota  
1983 - 1985           Clinical Assistant Professor, Department of Psychiatry, University of Minnesota Medical School, Minneapolis, Minnesota  
1985 - 1994           Associate Professor of Psychiatry, Medical College of Georgia, Department of Psychiatry and Health Behavior  
1994 - 2002           Professor of Psychiatry, Medical College of Georgia, Department of Psychiatry and Health Behavior

- 2003 - 2012 Professor of Psychiatry, University of Louisville School of Medicine, Louisville, Kentucky
- 2003 -2012 Associate in Pediatrics, University of Louisville School of Medicine, Louisville, Kentucky
- 2012 Professor of Pediatrics, University of Louisville School of Medicine, Louisville, Kentucky
- 2012 Associate in Psychiatry, University of Louisville School of Medicine, Louisville, Kentucky

**CLINICAL / ADMINISTRATIVE APPOINTMENTS**

- 1978 – 1979 Psychiatric consultant to Hennepin County Adult Correction Facility, Minneapolis, Minnesota
- 1981- 1982 Staff Psychiatrist, Outpatient Services, Division of Child and Adolescent Psychiatry, University of Minnesota Hospitals, September
- 1982 – 1983 Attending Staff Psychiatrist, Adolescent Psychiatry Diagnostic and Treatment Unit, University of Minnesota Hospitals
- 1983 – 1985 Medical Director, Kiel Clinics, St. Paul, Edina and Fridley, Minnesota
- 1985 – 1990 Medical Director, Child and Adolescent Program, Georgia Regional Hospital at Augusta
- 1986 – 2002 Director of Training, Child and Adolescent Psychiatry Fellowship Program, Medical College of Georgia
- 1990 – 1991 Acting Chief, Division of Child, Adolescent and Family Psychiatry, Medical College of Georgia
- 1991 – 2002 Chief, Division of Child, Adolescent and Family Psychiatry, Medical College of Georgia
- 1997 – 2000 Director of Clinical Services, Department of Psychiatry and Health Behavior, Medical College of Georgia
- 2003 – Present Chief, Division of Child and Adolescent Psychiatry, Department of Psychiatry and Behavioral Sciences, University of Louisville School of Medicine
- 2003 – 2012 Vice Chair for Child and Adolescent Programs, Department of Psychiatry and Behavioral Sciences, University of Louisville School of Medicine
- 2003 – Present Chief Executive Officer, Bingham Clinic, Louisville, Kentucky

## COMMITTEE ASSIGNMENTS

### **Local:**

1980 - 1982	Clinical Clerkship Committee, University of Minnesota Medical School
1984 - 1985	University of Minnesota Child Psychiatry Fellowship Training Committee
1986 - 1990	Augusta Area Coalition for Children and Youth, Member
1986 - 1990	Patient Care Review Committee, Medical College of Georgia
1986 - 1990	Residency Education Committee, Medical College of Georgia
1986 - 2002	Chair, Training Committee in Child Psychiatry, Medical College of Georgia
1986 - 1993	Chair, Medical Student Education in Child Psychiatry and Member, Department of Psychiatry Medical Student Education Committee
1990 - 1991	Member, Advisory Council to Medical College of Georgia, Department of Pediatrics, Section of Adolescent Medicine
1990 - 2002	Member, Medical College of Georgia, Department of Psychiatry Executive/Finance Committee
1990 - 2002	Chair, Martha McCranie Lectureship Committee
1991 - 1993	Member Academic Council, Medical College of Georgia
1991 - 1999	Member, Medical College of Georgia, Ad Hoc Dean's Committee on Resident Dismissals
1991 - 1999	Member, Medical College of Georgia, Graduate Medical Education Steering Committee
1992 - 1998	Chair, Psychiatry Work Group Consulting to Executive Planning Committee for Medical College of Georgia, Children's Medical Center
1991 - 2002	Chair, Child Psychiatry Grand Rounds Committee
1992 - 1994	Member, Medical College of Georgia, Department of Psychiatry Newsletter Editorial Board
1993 - 1994 Georgia	Member, Search Committee for Chair of Pediatrics of Medical College of
1993 - 1997	Member, Medical College of Georgia, Department of Psychiatry Space

Committee

- 1997 - 2002 Member, Medical College of Georgia, Department of Psychiatry Education Committee
- 1997 - 2000 Chair, Department of Psychiatry and Health Behavior, Appointment, Promotions and Tenure Committee
- 1997 - 2002 Chair, Department of Psychiatry and Health Behavior, Clinical Faculty Committee
- 1998 - 2000 Member, Department of Psychiatry and Health Behavior, Managed Care Committee
- 1998 - 2000 Member, Governance Committee, State of Georgia Mental Health and Mental Retardation Region 12 Collaborative Program
- 2003-2012 Member, Executive Committee, Department of Psychiatry and Behavioral Sciences, University of Louisville School of Medicine
- 2003-2010 Member, Education Committee, Department of Psychiatry and Behavioral Sciences, University of Louisville School of Medicine
- 2003-present Member Executive Committee, Kosair Children's Hospital, Louisville, Kentucky
- 2005-2012 Member, Risk Management Committee, Department of Psychiatry and Behavioral Sciences, University of Louisville School of Medicine
- 2010-2012 Member, Committee on Medical Student Wellness, University of Louisville School of Medicine

**National Committees:**

- 1983 - 1984 Director of Free University, Association for Academic Psychiatry
- 1984 - 1989 Chair, Section on Child and Adolescent Psychiatry, Association for Academic Psychiatry
- 1985 - Present Member, Committee on the Family, American Academy of Child and Adolescent Psychiatry
- 1986 Chairman, Family Therapy Institute, "The Family Therapy of Major Adolescent Psychopathology," American Academy of Child and Adolescent Psychiatry
- 1987 - 1989 Member, Recruitment Initiative in Child Psychiatry. Representatives from the American Psychiatric Association, American Academy of Child and Adolescent Psychiatry, American Association of Directors of Psychiatric Residency Training,

Society of Professors of Child Psychiatry, and the American Academy of Pediatrics

- |                |   |
|----------------|---|
| 1988 - Present | Specialist Site Visitor in Child Psychiatry for Residency Review Committee, (Psychiatry) of the Accreditation Council for Graduate Medical Education                            |
| 1989           | Co-Chair, Section on Child Psychiatry's Relationships with Adult Psychiatry Residency Training, National Conference on Recruitment in Child Psychiatry, San Diego, California   |
| 1989 - 1991    | Association for Academic Psychiatry, Program Committee  |
| 1989 - 1995    | American Psychiatric Association Program Committee  |
| 1989 - Present | Senior Examiner in Child Psychiatry, American Board of Psychiatry and Neurology   |
| 1989 - Present | Senior Examiner in Adult Psychiatry, American Board of Psychiatry and Neurology   |
| 1989 - 2004    | Chair, Special Interest Group on Family Therapy, American Academy of Child and Adolescent Psychiatry  |
| 1991 - 2002    | Chief Proctor, American Board of Psychiatry and Neurology, Part I Examinations  |
| 1995 - 2009    | Chair, Committee on Family, American Academy of Child and Adolescent Psychiatry   |
| 1996           | Chair, Family Therapy Institute. Family Assessment and Family Treatment: An Update. Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Philadelphia, PA |
| 1997- 2004     | Member, Selection Committee, Psychiatric Residency Curriculum Awards, National Institute for Health Care Research   |
| 1999 - 2002    | Chair, Committee on Education and Training, Society of Professors of Child and Adolescent Psychiatry  |
| 1999           | Member, Medical College of Georgia, Liaison Committee on Medical Education Task Force   |
| 2001           | Chair, Family Therapy Institute, Family Therapy and Integrated Psychotherapeutic Treatments, American Academy of Child & Adolescent Psychiatry Annual Meeting, Honolulu, Hawaii |
| 2002 – 2004    | Program Chair, Society of Professors of Child and Adolescent Psychiatry   |

2006-2008                    Membership Chair, Society of Professors of Child and Adolescent Psychiatry

### **EDITORIAL ACTIVITIES**

1989 - Present	Journal Reviewer: Academic Psychiatry Journal of American Academy of Child and Adolescent Psychiatry Family Process American Journal of Psychiatry Journal of Nervous and Mental Disease
2009	Asia Pacific Psychiatry
2003-2015	Editorial Board, Family Process
2000 – 2006	Editorial Board, Journal of American Academy of Child and Adolescent Psychiatry

### **CONSULTANTSHIPS**

1981 - 1983	Consultant in Adolescent Psychiatry, Arlington House, Residential Treatment Center, St. Paul, Minnesota
1982 - 1983	Consultant in Psychiatry, Kiel Clinics (private mental health clinic), St. Paul, Minnesota
1983 - 1985	Consultant in Child Psychiatry, Northland Mental Health Center, Grand Rapids, Minnesota
1983 - 1985	Consultant in Child and Adult Psychiatry, Central Mesabi Medical Center, Hibbing, Minnesota
1985 - 1992	Consultant to Augusta Regional Youth Development Center, Augusta, Georgia
1987	Consultant to "Focus on the Family," Private Organization, Non-Profit, Los Angeles, California
1988	Consultant to C. Everett Koop, M.D., Surgeon General of the United States
1992 - 1993	Consultant in Family Therapy, American Academy of Child and
1996 - 1998	Adolescent Psychiatry, Annual Meeting
1995 - 2002	Consultant in Telemedicine (Psychiatry), Medical College of Georgia
1996	Consultant to National Institute for Health Care Research on "Model Curriculum for Psychiatry Residency Training Programs: Religion and Spirituality in Clinical Practice."

- 1996 - 1997                    Consultant to National Institute for Health Care Research, Conference on Progress in Spiritual Research
- 1998                            Consultant to State of Georgia, Department of Medical Assistance, Assessment of State Mental Health Clinics' Children's Services
- 2010                            Consultant to Laity Lodge, San Antonio, Texas

### **AWARDS / HONORS**

- 1982                            "Rookie-of-the-Year Award." Recognition of excellence in teaching by junior faculty, University of Minnesota
- 1989                            "Excellence in Supervision." Award from child psychiatry fellows, Medical College of Georgia, Augusta, Georgia
- 1995                            Distinguished Faculty Award for Clinical Science Teaching, School of Medicine, Medical College of Georgia
- 1997                            Association for Academic Psychiatry, "Teacher of the Year Award" (Southern Region)
- 2001                            Educational Excellence Award, Department of Psychiatry and Health Behavior, Medical College of Georgia
- 2004                            Consultantship, George Washington University Institute for Spirituality and Health
- 2007                            Presidential Achievement Award, Primary Author, Practice Parameter on Assessment of the Family American Academy of Child and Adolescent Psychiatry
- 2009                            The Oates Award, in recognition of significant contributions to the field of pastoral care, awarded by the Wayne Oates Institute
- 2012                            Gaines Professional Award, outstanding contribution to the mental health of Kentucky, Mental Health of America (Kentucky)
- 2015                            Oskar Pfister Award for outstanding career contributions to the study of religion, spirituality and psychiatry, awarded by the American Psychiatric Association.

### **GRANTS / CONTRACTS**

- 1987 - 1989    (\$60,000/yr)                    Project Director, Training Contract, Gracewood State School & Hospital
- 1987 - 1998    (\$30,000/yr)                    Project Director, Training Contract, Sand Hills Psychoeducational Institute

1987 - 6/30/87 (\$76,000)	Project Director, Training Contract with Charter Hospital of Augusta
1987 - 1988 (\$235,000)	
1988 - 1991 (\$120,000/yr)	
1992 - 1994 (\$65,000/yr)	
1986 - 1997 (\$34-\$36,000/yr)	Project Director, Training Contract with Department of Juvenile Justice, State of Georgia
1998 - 1999 (\$36,000/yr)	
1999 - 2000 (\$85,000/yr)	
2000 - 2001 (\$170,000/yr)	
2001 – 2002 (\$450,000)	Project Director, Child and Adolescent Respond and Evaluate (CARE) Program in Child and Adolescent Crisis Services for Region 12 (State of Georgia Department of Mental Health)
2003-12 (\$150,000/yr., average award)	Project Director, Metro United Way of Louisville Grant to Bingham Child Guidance Center
2004-12 (\$70,000/yr)	Training contract with Our Lady of Peace Medical Center, Louisville, Kentucky
2005-12 (\$60,000/yr)	Training Grant with Kentucky Department of Juvenile Justice, Louisville, Kentucky
2003-12 (\$45,000/yr, average award) WHAS Crusade for Children Health Care Grant, Louisville, Kentucky	
2007-13 (\$110,000/yr)	Training Contract with Seven Counties Services, Louisville, Ky.

### **LEGAL FORENSIC RESUME**

Expert Witness/Consultation/Testimony in 52 cases: medical malpractice, custody, abuse, special education, adolescent pregnancy/family issues, criminal (loss of life/adolescent violence).

### **SCIENTIFIC AND PROFESSIONAL SOCIETIES**

#### **National:**

1982-2001	American Psychiatric Association
1982-2006	Royal College of Physicians and Surgeons (Canada) (Fellow)
1983-Present	American Academy of Child and Adolescent Psychiatry (Distinguished Fellow)
1983-Present	Association for Academic Psychiatry
1983-1989	American Scientific Affiliation
1985-1989	Society for Research in Child Development

1985-1998	American Orthopsychiatric Association
1985-present	American Medical Association
1986-2002	American Association of Directors of Psychiatric Residency Training
1989-Present	American Family Therapy Academy
1986-2002	Central Savannah River Area, Psychiatric Society
1986-1992	Georgia Psychiatric Association
1986-1992	Georgia Council on Child and Adolescent Psychiatry
2001-Present	American Psychiatric Association (Distinguished Life Fellow)
2003-Present	Jefferson County Medical Society
2003-Present	Christian Medical and Dental Association President, 2005-2008
2005-Present	American College of Psychiatrists
2007-Present	Group for the Advancement of Psychiatry (Committee on Family)

### **TEACHING (Current)**

"The Interactional Contribution to Child Development" to first and second year child psychiatry residents. This is a series of seminars discussing the role of family interaction in child development, part of a child development series.

Case Conference and selected lectures in child and adolescent psychiatry to psychiatry residents and child psychiatry residents.

Individual seminars on adolescence in "Growth, Development, and Psycho-pathology: A Contextual Approach" for first year child psychiatry residents.

Medical student lectures on "Normal Development and Child Psychopathology," "Family in Human Development and Medical Practice" and "Adolescent Disorders."

Family Therapy Seminar for second year child psychiatry residents.

Invited lectures to pediatric residents on family therapy, eating disorders and child development.

Coordinate Family and Couples Therapy for third year general residents

Coordinate Forensic and Administrative Seminar for Child and Adolescent Fellows

Directed Seminar at University of Louisville on "Spirituality and World View in Clinical Practice" for third year general psychiatry residents 2005-2007

Lecturer in University of Louisville School of Medicine series on "Religion, Spirituality, and Medicine" and "Medical Humanities"

Course Director, "At the Intersection of Religion and Medicine." Required course for second year medical students, University of Louisville School of Medicine.

## **PRESENTATIONS**

### **National / International:**

- March, 1982                    "Psychiatry residents and the telephone: An analysis of usage patterns and recommendations for training". Association for Academic Psychiatry Annual Meeting, Bethesda, Maryland.
- September, 1982                "Developmental Issues in the Eating Disorders." Council for Children with Behavior Disorders Annual Meeting, Minneapolis, Minnesota.
- August, 1984                    "The Developmental Problems of Christian Families". Second National Conference on the Church and Family, College of St. Thomas, Minneapolis, Minnesota.
- October, 1984                  "The Role and Meaning of Dietary Manipulations in Families with a Hyperactive Child." American Academy of Child Psychiatry Annual Meeting, Toronto, Canada.
- October, 1984                  "Attentional Changes in Children after Food Color Challenge." American Academy of Child Psychiatry Annual Meeting, Toronto, Canada.
- March, 1985                    "Approaches to Teaching Development in Academic Psychiatry." Association for Academic Psychiatry Annual Meeting, Tampa, Florida.
- March, 1986                    "The Use and Abuse of Humor in Teaching." Association for Academic Psychiatry Annual Meeting, Tucson, Arizona.
- March, 1986                    "Surviving as a Child Psychiatry Educator: History and Current Trends." Co-presented with J. Forster, H. Gabriel, and M. Drell, Association for Academic Psychiatry Annual Meeting, Tucson, Arizona.
- October, 1986                  "Variants of Individuation Failure: The Family's Role." Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Los Angeles, California.

- October, 1986 "Audiovisual Approaches in the Understanding of Child Development." Co-presented with D. Fidler and W. Erickson. Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Los Angeles, California.
- October, 1986 "The Adolescent in Family Therapy: Integrating Individual and Family Dynamics." Chair of Workshop, also co-presented with J. Frey, S. Xenakis, and C. Malone. Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Los Angeles, California.
- February, 1987 "Working with Families of Hyperactive Children." Georgia Psychiatric Association Annual Meeting, Atlanta, Georgia.
- March, 1987 Chairman, Symposium on "Gender Issues in Career Development and Psychiatry Education." Association for Academic Psychiatry Annual Meeting, Tampa, Florida.
- May, 1987 Course Director and Presenter, "Integrating Individual and Family Dynamics in the Treatment of Major Psychiatric Disorders." American Psychiatric Association, Annual Meeting, Chicago, Illinois.
- October, 1987 "The Family Therapy of Adolescent Narcissism." Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Washington, DC.
- January, 1988 "Teaching the Integration of Individual and Family Therapy." American Association of Directors of Psychiatric Residency Training Annual Meeting, New Orleans, LA.
- May, 1988 "Family Therapy and Adolescent Narcissistic Disorders." American Psychiatric Association Annual Meeting, Montreal, Canada.
- May, 1988 "Informed Content: Legal Consent Versus Therapeutic Process." American Psychiatric Association Annual Meeting, Montreal, Canada.
- May, 1988 "Family Dysfunction and the Attention Deficit Disordered Child." American Psychiatric Association Annual Meeting, Montreal, Canada.
- October, 1988 "When Self and System Collide: Ethics in Family Therapy." Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Seattle, Washington. (with P. Jensen)
- October, 1988 "Limit Setting in Family Therapy." Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Seattle, Washington.
- November, 1988 "A Religious Perspective on the Developmental Process." International Congress on Christian Counseling Annual Meeting, Atlanta, Georgia.

- November, 1988 "Sin or Psychopathology: An Analysis of Two Divergent Views." International Congress on Christian Counseling Annual Meeting, Atlanta, Georgia.
- November, 1988 "A Developmental Perspective on Abortion." International Congress on Christian Counseling Annual Meeting, Atlanta, Georgia.
- March, 1989 "The Developmental Model: An Aid to Ethical Decision Making in Family Therapy." Association for Academic Psychiatry Annual Meeting, Atlanta, Georgia.
- May, 1989 Chair, Symposium, "Gender and the Academic Life Cycle of Psychiatrists." American Psychiatric Association Annual Meeting, San Francisco, California.
- May, 1989 "Why Johnny Can't Sit Still: Kids Ideas of Why They Take Stimulants." (with P.S. Jensen and M.W. Bain.) American Psychiatric Association Annual Meeting, San Francisco, California.
- October, 1989 "Teaching the Integration of Individual and Family Therapy", In "Child Psychiatry Training: Curriculum Development and Program Evaluation". Annual Meeting of the American Academy of Child and Adolescent Psychiatry, New York, NY
- January, 1990 "Ethics and Family Therapy" (with A. Sondheimer, M.D.) American Association of Directors of Psychiatric Residency Training Annual Meeting, New Orleans.
- October, 1990 "Family Classification and Environmental Types: New Thoughts About Old Problems." (with P. Jensen, H. Davis, L. Blodeu, D. Smith.) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Chicago, Illinois.
- October, 1990 "Family Therapy of Children at Risk: Working with Character Disordered Parents." (with J. Connell, and J. Sargent) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Chicago, Illinois.
- October, 1990 "Teaching the Biopsychosocial Approach to the Severely Disturbed Child." (with M. Drell and R. Angell) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Chicago, Illinois
- March, 1991 "Psychiatric Residents as Teachers: Consultation to Non-Medical Professionals as a Training Experience." (with R. James) Association for Academic Psychiatry Annual Meeting, Tampa, Florida.
- May, 1991 "When World View of Patient and Psychotherapist Conflict." (with A. Nicholi, Jr., L. Bishop, R. Sider and I. Wiesner) American Psychiatric Association Annual Meeting, New Orleans, Louisiana.
- May, 1991 "Family Therapy and Personality Disordered Parents." (with J. Sargent) American Psychiatric Association Annual Meeting, New Orleans, Louisiana.

- October, 1991 "Relational Ethics and Child Treatment." (with L. Combrinck-Graham) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Francisco, California.
- October, 1991 "Integrating Family Concepts in the Teaching of Child Development." Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Francisco, California.
- October, 1991 "Family Therapy: Conceptual and Technical Approaches." (with M. Blotcky, J. Lewis, G.P. Sholevar, R. Stewart) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Francisco, California.
- October, 1991 "Ethics and the Practice of Child and Adolescent Psychiatry." (with A. Sondheimer, J. Sargent) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Francisco, California.
- October, 1991 "Academic Career Development in Child and Adolescent Psychiatry." (with J. Forster, M. Slonowitz, A. Unis, H. Wright) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Francisco, California.
- October, 1991 "The Difficult-to-Treat Adolescent: An Integrative Approach." (with J. Sargent, E. Beresin, S. Grater, A. Sondheimer) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Francisco, California.
- October, 1991 "State-University Collaboration in Child and Adolescent Psychiatry." (with D. Parmelee, H. Wright) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Francisco, California.
- October, 1991 "The AACAP Clinical Database Project: Methods, Implementation and Results." (with T. Anders, P. Jenson, B. Leventhal, L. Bloedau, B. Lee) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Francisco, California.
- January, 1992 "Non-Academic Challenges for Child Psychiatry Residents: The Resident and His Family." (with P. Holden, M. Drell, K. Matthews) American Association of Directors of Psychiatric Residency Training Annual Meeting, New Orleans, Louisiana.
- January, 1992 "Giving Talks to Non-Medical Audiences as a Training Experience." (with R.C. James) American Association of Directors of Psychiatric Residency Training Annual Meeting, New Orleans, Louisiana.
- May, 1992 "Alcohol and the Family: The Party's Over." Symposium discussant, American Psychiatric Association Annual Meeting, Washington, D.C.
- October, 1992 "State University Collaboration Issues in Child and Adolescent Psychiatry." (with

- H. Wright and D. Parmelee) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Washington, D.C.
- October, 1992 "Ethics, the Family, and Child and Adolescent Psychiatry Practice." (with A. Sondheimer and J. Sargent) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Washington, D.C.
- October, 1992 "The Difficult to Treat Adolescent: An Integrative Approach." (with J. Sargent, A. Sondheimer, and E. Beresin) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Washington, D.C.
- November, 1992 "A Proposal Framework for Making Value Judgments in Psychotherapy." (with C. Cottle, R. Bagge') Second International Congress on Christian Counseling, Atlanta, Georgia.
- November, 1992 "Theological Perspectives on the Developmental Process: A Child Psychiatrist's Perspective." Second International Congress on Christian Counseling, Atlanta, Georgia.
- May, 1993 "The Psychiatrist's World View and Clinical Models." American Psychiatric Association Annual Meeting, San Francisco, California.
- May, 1993 "When A Child Dies: The Impact of the Parents' World View." American Psychiatric Association Annual Meeting, San Francisco, California.
- October, 1993 "The Difficult to Treat Adolescent: An Integrative Approach." (with J. Sargent, A. Sondheimer, G. Beresin) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Antonio, Texas.
- March, 1994 "The Politically Correct Psychiatrist: How Do We Promote Patient Autonomy and Responsibility When Everyone Is a Victim?" (with D. Misch) Association For Academic Psychiatry Annual Meeting, Tucson, Arizona.
- May, 1994 "The Exploration of World Views in Psychotherapy," Course Director, American Psychiatric Association Annual Meeting, Philadelphia, Pennsylvania.
- October, 1994 "Family Therapies: Integration with Other Treatment Modalities in the Treatment of the Seriously Disturbed Adolescents." Annual Meeting of the American Academy of Child and Adolescent Psychiatry, New York City, New York.
- May, 1995 "The Exploration of World Views in Psychotherapy," Course Director, American Psychiatric Association Annual Meeting, Miami, FL.
- October, 1995 "Multimodal Treatment of Disturbed Adolescents." (with J. Sargent, A. Sondheimer, G. Beresin) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, New Orleans.

- March, 1996 "Myths About the Biopsychosocial Model." Association for Academic Psychiatry Annual Meeting, Tampa, Florida.
- March, 1997 "Teaching Minority Issues in Psychiatry Residency." (With R. Burkett and B. Simpson) Southern Group on Educational Affairs Annual Meeting, Augusta, Georgia.
- May, 2000 "Clinical Models and a Religious/Spiritual World View: Toward a Rapprochement". American Psychiatric Association Annual Meeting, Chicago, Illinois.
- May, 2000 "World Views and the Doctor Patient Relationship". Symposium Chair, American Psychiatric Association Annual Meeting, Chicago, Illinois.
- July, 2000 "Raising Children in Foreign Cultures: Implications for Child and Adolescent Development." South Indian Ocean Missionaries and Educators Annual Conference, Reunion Island, France.
- October, 2000 "Do Families Cause, or Respond to, Psychopathology?" Association for Academic Psychiatry Annual Meeting, Vancouver, B.C., Canada.
- March, 2001 "Guidelines on Determining the Family's Role in Psychopathology: Implications for Psychiatric Residency Training." American Directors of Psychiatric Residency Training Annual Meeting, Seattle, Washington.
- March, 2001 "Ten Myths About the Biopsychosocial Model." Annual Meeting of the Society of Professors of Child and Adolescent Psychiatry, Key Largo, Florida.
- May, 2001 "Beyond Mind and Brain: Considering the Patient's World View." Symposium Chair, American Psychiatric Association Annual Meeting, New Orleans, Louisiana.
- May, 2001 "Clinical Psychiatry and Spirituality: Another Level of Integration." American Psychiatric Association Annual Meeting, New Orleans, Louisiana.
- October, 2001 "The Clinical Process of Sequencing Psychotherapeutic Treatments," Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Honolulu, Hawaii.
- March, 2002 "Becoming an Administrative Chief: Observations on Leading a Child Psychiatry Division," Annual Meeting of the Society of Professors of Child and Adolescent Psychiatry, Hollywood, Florida.
- October 2002 "Religion and Spirituality in Child and Adolescent Treatment", Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Francisco, California.

- October 2002      "Gay and Lesbian Parenting: Emerging Issues", Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Francisco, Ca.
- March, 2003      "What Does A New Division Chief Need To Learn", Annual Meeting of the Society of Professors of Child and Adolescent Psychiatry, Santa Fe, New Mexico.
- October, 2003      "Genetics and The Environment: Clinical Perspectives." (Symposium discussant). Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Miami, Florida.
- March 2004      "What Does a New Division Chief Need to Learn". Annual Meeting of the Society of Professors of Child and Adolescent Psychiatry, San Juan, Puerto Rico.
- May, 2004      "Controversies at the Interface Between Religion and Psychiatric Practice". Workshop Chair, Annual Meeting of the American Psychiatric Association, New York, New York.
- May, 2004      "Religion, Spirituality and Psychiatric Practice at the University of Louisville", Annual Meeting of the American Psychiatric Association, New York, New York.
- March 2005      "Going from 'Good to Great': Helping Child Psychiatry Divisions Take the Next Step Forward", Annual Meeting of the Society of Professors of Child and Adolescent Psychiatry, Washington, D.C.
- May 2005      "World Views in Psychiatry: Approaches to Clinical Care", (with J. Peteet and M.L.Dell), Annual Meeting of the American Psychiatric Association, Atlanta, Georgia.
- May 2005      "Neutrality Revisited: Is Autonomy What We Most Want?" Workshop (with Thielman, SB, Bishop, LB and Peteet, JR) American Psychiatric Association Annual Meeting, May
- October 2005      "Master Clinician", Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Toronto, Canada.
- October 2005      "Family Assessment Parameter: A Guide to Clinical Practice", Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Toronto, Canada.
- April 2006, 2007, 2008, 2009  
2012, 2013      "What Does A Division Director Need to Know?" (with M. Drell) Annual Meeting of the Society of Professors of Child and Adolescent Psychiatry, Washington, D.C.
- May 2006      "Curricula in Spirituality and Psychiatry", Symposium Discussant, Annual Meeting of the American Psychiatric Association, Toronto, Canada
- May 2006      "Can We Talk? A Model for Constructive Conversation between Opponents and

Advocates of Same Sex Relationships toward a Dialogue on Homosexual Marriage". (With J Drescher, J Peteet, P. Feeley and C. Ambridge). Annual Meeting of the American Psychiatric Association, Toronto, Canada.

- May 2006 "Worldview and Spirituality in Clinical Practice", Course Director, Annual Meeting of the American Psychiatric Association, Toronto, Canada.
- May 2006 "Religious and Spiritual Aspects of Child and Adolescent Psychiatric Disorders", (with ML Dell). In symposium "A Research Agenda for DSM V Concerning Religious and Spiritual Issues in the Diagnostic Process". Annual Meeting of the American Psychiatric Association, Toronto, Canada.
- October 2006 "Master Clinician", Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Diego, California.
- October 2006 "New Perspectives on Family Assessment", Chair, Special Interest Group, Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Diego California.
- October 2006 "Failure: Recognizing, Accepting and Learning from Failures in Treatment" (with S Copans et al) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Diego, California.
- October 2006 "Psychosocial Research in ADHD", Discussant, Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Diego, California.
- May 2007 "Worldview and Spirituality in Clinical Practice", Course Director, Annual Meeting of the American Psychiatric Association, San Diego, California.
- October 2007 "Master Clinician", Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Boston, Massachusetts.
- October 2007 "Family Treatments and Epidemiology", Maintenance of Certification Institute, Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Boston, Massachusetts.
- October 2007 "Catatonia in a Four Year Old Girl", Case Conference Discussant, Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Boston, Massachusetts.
- May 2008 "Worldview and Spirituality in Clinical Practice", Course Director, Annual Meeting of the American Psychiatric Association, Washington, D.C.
- October 2008 "Master Clinician", Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Chicago, Illinois.
- October 2008 "Limit Setting in Clinical Practice: Effective Strategies to Empower Parents", Annual Meeting of the American Academy of Child and Adolescent Psychiatry,

Chicago, Illinois.

- October 2008      "Long Term Treatment of Psychosis in Young Children". Clinical Case Conference with S. Mason, M. Benoit, P. Joshi and N. Gogtay. Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Chicago, Illinois.
- Octcober 2008      "Religion and Spirituality in Clinical Practice". Co-Chair (with M L. Dell). Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Chicago, Illinois.
- May 2009      "From Development to DSM: Can our Teaching Bridge the Gap?" Annual Meeting of the Society of Professors of Child and Adolescent Psychiatry, Washington D.C.
- October 2009      "Master Clinician", Annual Meeting of the American Academy of Child and Adolescent Psychiatry, Honolulu, Hawaii.
- October 2010      "Limit Setting in Clinical Practice: Effective Strategies to Empower Parents". Chair, Co-presented with S. Copans and P.A. Mabe, Annual Meeting of the American Academy of Child and Adolescent Psychiatry, New York, New York.
- October 2010      "Religion and Spirituality in Child and Adolescent Psychiatric Practice". Chair of Institute, Annual Meeting of the American Academy of Child and Adolescent Psychiatry, New York, New York.
- October 2010      "Religion and Spirituality in Child and Adolescent Psychiatry: A New Frontier". Annual Meeting of the American Academy of Child and Adolescent Psychiatry, New York, New York.
- October 2010      "Integrating Religious and Spiritual Issues in the Treatment of Children, Adolescents, and Families." Annual Meeting of the American Academy of Child and Adolescent Psychiatry, New York, New York.
- October 2010      "When the Diagnosis is Bipolar: Are There Other Explanations?" (Chair) Annual Meeting of the American Academy of Child and Adolescent Psychiatry, New York, New York.
- October 2010      "The Family's Role in Self Regulation: Developing the Ability to "Stop". Annual Meeting of the American Academy of Child and Adolescent Psychiatry, New York, New York.
- November 2011      "Families and Depression" with B. Beardslee and E. Berman, Annual Meeting of the National Network of Depression Centers, Baltimore, Maryland.
- April 2013      "Why the Family is Relevant for the Contemporary Psychiatrist." Group for the Advancement of Psychiatry, White Plains, New York.
- May 2014      "Lessons Learned from a Departmental Crisis: Moving a Child Psychiatry

Division into a Department of Pediatrics", Annual Meeting of the Society of Professors of Child and Adolescent Psychiatry, Washington, D.C.

- October 2014      Anxiety and Autism: Family Perspectives. Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Diego, California.
- October 2014      Reinventing Family Therapy: Toward Family Intervention, Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Diego, California.
- October 2014      From Family Therapy to Family Intervention: The Next Paradigm, Annual Meeting of the American Academy of Child and Adolescent Psychiatry, San Diego, California.

## **PRESENTATIONS**

### **Invited Lectureships:**

- September, 1987      "The Family Therapy of Adolescent Narcissism." Grand Rounds presented to the University of Minnesota, St. Paul Ramsey Medical Center, St. Paul, Minnesota.
- June, 1989      "The Self in the System: Toward the Integration of Individual and Family Therapy." Grand Rounds, Pine Rest Christian Hospital, Teaching Hospital of Michigan State University, Grand Rapids, Michigan.
- April, 1990      "Integration of Individual and Family Therapy", Grand Rounds, Department of Psychiatry, Loma Linda University , Loma Linda, California.
- October, 1990      "An Interactional Perspective on Adolescent Narcissistic Disorder", Grand Rounds, Department of Psychiatry, University of South Carolina, Columbia, South Carolina.
- January, 1995      "The Integration of Individual and Family Therapy," University of Pennsylvania, Philadelphia Child Guidance Clinic, Philadelphia, Pennsylvania.
- November, 1996      "Ten Myths About Family Therapy," Grand Rounds, New Jersey Medical School, Newark, New Jersey.
- February, 1997      "Ten Myths About Family Therapy," Grand Rounds, Mayo Medical School, Rochester, Minnesota.
- September, 1997      "Contemporary Perspectives on Child and Adolescent Psychiatry," Menninger Clinic, Topeka, Kansas.
- September, 1999      "Family Therapy in an Era of Biologic Psychiatry," Emory University, Atlanta, Georgia.

- May, 2001            "Family Therapy in an Era of Biologic Psychiatry," Cleveland Clinic, Cleveland, Ohio.
- August 2005          "Family Based Treatment Research", Presented at the American Medical Association National Media Briefing , New York, New York.
- March 2007            "Dealing with Worldview and Spirituality in Clinical Practice", University of Puerto Rico, San Juan Puerto Rico.
- October 2007          "Diagnosis in Contemporary Psychiatry: What's in a Name" University of North Carolina, Chapel Hill, North Carolina.
- March 2008            "Spirituality and Religion in the Clinical Worlds of Patients and Families", University of Washington, Seattle. Children's Hospital, Seattle, Washington.
- August 2008            "Treating the Troubled Mind: Religious and Spiritual Perspectives". Annual Meeting of the Georgia Psychiatric Physicians' Association, Amelia Island, Florida.
- September 2008        "World View and Spirituality in Clinical Practice". University of California at Davis, Sacramento, California.
- April 2009            "World View and Spirituality in Clinical Practice", Loma Linda University, Loma Linda, California.
- April 2009            "Holistic Treatment of Adolescent Bipolar Disorder", St. Mary's Medical Center, Evansville, Indiana.
- January 2010          "Worldview and Spirituality in Psychiatric Practice", Virginia Tech School of Medicine/Carilion Clinic, Roanoke, Virginia.
- May 2011            When the Diagnosis is Bipolar: The Family's Role in Self Regulation, Harvard Medical School/Boston Children's Hospital.
- September 2011       Brewster Lecture, When the Diagnosis is Bipolar: The Family's Role in Self Regulation, University of Colorado School of Medicine.
- September 2011       Worldview and Spirituality: Child, Adolescent and Family Perspectives, University of Colorado School of Medicine.
- September 2011       When the Diagnosis is Bipolar: The Family's Role in Self Regulation, University of Kentucky School of Medicine.
- March 2013            When the Diagnosis is Bipolar: The Family's Role in Self Regulation, Emma Pendleton Bradley, Brown University.
- March 2013            Why the Family is Relevant for the Contemporary Psychiatrist. Position Statement presented at the Plenary of the Group for Advancement of Psychiatry,

White Plains, New York.

- December 2013      When the Diagnosis is Bipolar: The Family's Role in Self Regulation, University of Texas (San Antonio).
- May 2014            The Family in Mental Health: Enduring Constants, Emerging Realities, University of Kentucky, Lexington, Kentucky.

## **PRESENTATIONS**

### **Regional:**

- June, 1981           "Relationships between Food and Behavior" to the "Nutritional Support in Development Disabilities" Conference, Sister Kenny Institute, Minneapolis, Minnesota.
- October, 1982        "The Psychodynamics of Eating Disorders" at the "Eating and Disorders Update" Conference, University of Minnesota, Minneapolis, Minnesota.
- November, 1982       "A Contemporary Psychiatric View of the Mind - Brain Problem" at the McLaurin Institute for Interdisciplinary Studies, Minneapolis, Minnesota.
- March, 1984           "Borderline Personality: Diagnosis and Management", Northland Mental Health Center, Grand Rapids, Minnesota.
- September, 1984       "Family Dysfunction and the Eating Disorders", Central Mesabi Medical Center, Hibbing, Minnesota.
- January, 1986           "Hyperactive Behaviors, Diets, and Families", Grand Rounds, Department of Psychiatry, Medical College of Georgia, Augusta, Georgia.
- July, 1986             "Emotional Development: Theological Implications", Georgia Regional Hospital, Atlanta, Georgia.
- May, 1986             "Alcohol Use and Associated Family System Dysfunction", Georgia Episcopal Diocese, Augusta, Georgia.
- September, 1986       "The Developmental Cycle of Families". Presented to Georgia Regional Hospital, Social Service Department, Augusta, Georgia.
- October, 1986          "Psychiatric Symptoms and Their Relationship to Family Dysfunction." Presented to Georgia Regional Hospital Social Service Department, Augusta, Georgia.
- January, 1987          "Managing Conduct Disorders in School Settings", Richmond County Special Education Conference, Augusta, Georgia.

- February, 1987 "Variants of Adolescent Individuation Failure." Grand Rounds, Department of Psychiatry, Medical College of Georgia, Augusta, Georgia.
- February, 1987 "The Severe Character Disorder in the Public Mental Health Setting." Presented at "A Public Health Symposium on the Major Psychiatric Illnesses," Augusta, Georgia.
- May, 1987 Chair, "Working With Families in Crisis," sponsored by Charter Hospital of Augusta and the Department of Psychiatry and Health Behavior of the Medical College of Georgia, Augusta, Georgia.
- May, 1988 Chair, "Parenting the Behavior Disordered Child," sponsored by Charter Hospital of Augusta and the Department of Psychiatry and Health Behavior of the Medical College of Georgia, Augusta, Georgia.
- May, 1988 "Self in the System: Toward the Integration of Individual and Family Therapy." Grand Rounds, Department of Psychiatry, Medical College of Georgia, Augusta, Georgia.
- February, 1990 "Epidemiology of Adolescent Narcissistic Disorder in Adolescent Psychiatric Inpatients", Grand Rounds, Department of Psychiatry, Medical College of Georgia, Augusta, Georgia.
- February, 1991 "Narcissistic Adolescents and Their Families", Charter Hospital of Augusta, Georgia.
- April, 1991 "Psychopharmacology Review in Child Psychiatry", Continuing Medical Education Symposium, Medical College of Georgia, Augusta, Georgia.
- June, 1991 "Inpatient Child and Adolescent Psychiatry", Continuing Medical Education Symposium, Medical College of Georgia, Augusta, Georgia.
- September, 1991 "Integration of Individual and Family Therapy in the Treatment of Adolescent Disorders", Charter Hospital, St. Simon's Island, Georgia.
- February, 1992 "Update in Adolescent Psychiatry", Chair, Medical College of Georgia, Continuing Medical Education, Augusta, Georgia.
- April, 1992 "Integration of Individual and Family Therapy in the Treatment of Child and Adolescent Disorders", Grand Rounds, Department of Psychiatry, Medical College of Georgia, Augusta, Georgia.
- October, 1992 "Clinical Features of Tic Disorders in Children and Adolescents", (with M. McSwiggan-Hardin and P. Hartlage) Georgia Chapter of American Academy of Pediatrics, Atlanta, Georgia.
- November, 1992 "Family Issues: Severe Tourette's Syndrome and Services Home and School Problems", (with M. McSwiggan-Hardin) Regional Symposium of Tourette

Syndrome Association of Georgia, Atlanta, Georgia.

- June, 1994 "Violence in Children, Adolescents and Families", Chair, Medical College of Georgia, Continuing Medical Education, Augusta, Georgia.
- November, 1998 "Children and Acute Hospitalization", Medical College of Georgia, Children's Medical Center, Continuing Medical Education, Augusta, Georgia.
- February, 2000 "Family Interventions with Tyrannical Adolescents", Annual Meeting of the Georgia Psychiatric Physician's Association.
- June, 2000 "Child and Adolescent Depression: An Update", Annual Meeting Georgia Academy of Pediatrics, Sea Island, Georgia.
- January/February 2001 "Suicide in Delinquent Youth: Diagnostic and Treatment Issues", Department of Juvenile Justice, State of Georgia, Forsythe, Georgia (with A. Mabe, Ph.D.)
- March, 2003 "An Integrated Approach to the Use of Pharmacotherapy in the Treatment of Child and Adolescent Disorders", Annual Meeting of the Kentucky Psychiatric Association, Louisville, Kentucky.
- October 2006 "Child and Adolescent Depression", NAMI sponsored conference for Mental Health Awareness Week, Louisville Kentucky.
- February 2006 "An Update on Family Treatments", Annual Meeting of the American Association of Family Therapy (Kentucky Chapter).
- November 2007 "Diagnosis in Child and Adolescent Psychiatry: What is In a Name?", Keynote Address, Pediatric Care Forum, Louisville, Kentucky, Sponsored by U of L Healthcare and Passport Health Plan.
- March 2008 "Diagnosis in Child and Adolescent Psychiatry: What is In a Name?" Grand Rounds, University of Louisville Department of Pediatrics, Louisville, Kentucky.
- October 2008 "Spirituality and Depression: Making Sense of the Relationship", Second Annual University of Louisville Depression Conference, Louisville, Kentucky.
- October 2009 "Bipolar Disorder in Children and Adolescents: A Reappraisal", Seventeenth Annual Pediatric Symposium, Department of Pediatrics, University of Louisville.
- February 2011 "What's Worldview Got to do With It?" Plenary address at the University of Louisville School of Medicine, Wellness Day.
- August 2011 "Children's Mental Health Treatment: Best Diagnosis for Best Care", Mental Health Symposium, Kentucky Academy of Pediatrics and American Academy of Pediatrics, Barren River, Kentucky.

- September 2011                    "Building Hope in Depression: The Role of Religion and Spirituality", University of Louisville Depression Center, Louisville Kentucky.
- March 2012                    "The Myth of the Bipolar Syndrome." Plenary Address at "Faces of Childhood Trauma" Symposium, sponsored by Kent School of Social Work, Jefferson County Circuit Court (Family Division) and East End Psychological Associates.
- November 2013                    "The Family in Mental Health: Enduring Constants, Emerging Realities." Plenary address of the 100<sup>th</sup> Anniversary of the Bingham Clinic Symposium, Louisville.
- September 2014                    The Myth of the Bipolar Syndrome, Third Annual Mental Health Forum, University of Louisville, Department of Pediatrics.

### **AUDIOVISUAL PROGRAMS**

- September, 1981                    "The Development of Personality." Produced by University of Minnesota Media Resources. Three hours of demonstration of normal child development. Review: H.J. Lurie, Hospital and Community Psychiatry, 1991, 42(1), p. 21.

### **PUBLICATIONS ABSTRACTS**

Josephson AM, MacKenzie TB. (Dec 1980) Thyroid-Induced mania in hypothyroid patients. *Digest of Neurology and Psychiatry* p. 452.

Josephson A.M, MacKenzie TB (Mar 1981) Thyroid-Induced mania in hypothyroid patients. *Psychiatry Digest* pp.6-7.

Josephson AM, Frey J, Xenaxis S, Malone C. (1986) The Adolescent in family therapy: Integrating individual and family dynamics. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 2, 45.

Josephson AM, Fidler D, Erickson W. (1986) Audiovisual approaches in the understanding of child development. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 2, 45.

Josephson AM, Thompson M. (1987) The family therapy of adolescent narcissism: Controlling behavior and developing empathy. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 3, 19-20.

Josephson AM. (1988) Integrating individual and family therapy. *American Association of Directors of Psychiatric Residency Training Workshop Supplement* 16(2), 5-6.

Josephson AM, Jensen P. (1988) When self and system collide: Ethics in family therapy. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 4, 25.

Chowanec G, Josephson A, Coleman C. (1989) Self harming behavior in incarcerated male delinquent

adolescents. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 5, 81.

Wright H, Josephson AM, Parmelle D. (1991) State-University collaboration in child and adolescent psychiatry. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 7, 24.

Josephson AM. (1991) Alternative pathways to academic career development. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 7, 36.

Sondheimer A, Sargent J, Josephson AM. (1991) Ethics and the practice of child and adolescent psychiatry. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 7, 20.

Anders T, Jensen P, Leventhal B, Bloedau L, Josephson A, Lee B, Traylor J. (1991) The AACAP data base project: Methods, implementation and results. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 7, 24.

Sargent J, Beresin E, Josephson A, Sondheimer A. (1992) The difficult to treat adolescent: An integrated approach. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 8, 22.

Wright H, Josephson A, Parmellee D. (1992) State-University collaboration issues in child and adolescent psychiatry. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 8, 20.

Sondheimer A, Sargent J, Josephson A. (1992) Ethics, the family and child and adolescent psychiatry practice. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 8, 21.

Sargent J, Sondheimer A, Beresin E, Josephson A. (1993) The difficult to treat adolescent: An integrative approach. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 9, 20-21.

Misch D, Josephson A. (1994) The politically correct psychiatrist: How do we promote patient autonomy and responsibility when everyone is a victim. *Bulletin of the Association for Academic Psychiatry* 22(1), 7.

Sargent J, Sondheimer A, Beresin E, Josephson A. (1994) Integrating treatment modalities for seriously disturbed adolescents: indications, methods, pitfalls. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 10, 16.

Josephson AM. (1995) Creating and maintaining excellent clinical rotations. *Scientific Proceedings of the Annual Meeting of the American Academy of Child and Adolescent Psychiatry* 11, 3.

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# EXHIBIT K

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA**

JOAQUÍN CARCAÑO *et al.*,

Plaintiffs,

v.

PATRICK MCCRORY *et al.*,

Defendants

CASE NO. 1:16-CV-00236-TDS-JEP

UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO. 1:16-CV-00425-TDS-JEP

STATE OF NORTH CAROLINA *et al.*,

Defendants

**DECLARATION OF LAWRENCE S. MAYER, MD, MS, PhD**

1. I have been retained by counsel for Defendants as an expert witness in connection with the above-captioned litigation.
2. I am a full-time academic involved in all aspects of teaching, research, and professional service. I am a medically trained biostatistician and epidemiologist who focuses on the design, analysis, and interpretation of experimental and observational data in public health and medicine, particularly when the data are complex in terms of underlying medical and scientific issues. I trained in medicine and psychiatry abroad, receiving a first level medical degree (M.B., the British Equivalent of an M.D.) in the United Kingdom. I then studied psychiatry and epidemiology before returning to the states to obtain an MS and

PhD in mathematics and statistics. I have never practiced psychiatry or clinical medicine and will not testify about any clinical issues. A copy of my CV is attached as Exhibit A.

3. My opinions as detailed in this declaration are based upon my knowledge and direct professional experience in the subject matters discussed. The materials that I have relied upon are the same types of materials that other experts in my field rely upon when forming opinions on the subject. A list of references and footnotes is included at the end of this declaration.

4. I have been a full-time tenured Professor for over four decades. I have held professorial appointments at nine universities including Princeton, the University of Pennsylvania, Stanford, Arizona State University, Johns Hopkins (Bloomberg School of Public Health and School of Medicine), The Ohio State University, Virginia Tech, University of Arizona, and the University of Michigan. I have held research faculty appointments at the Mayo Clinic, the Banner Alzheimer's Institute, and a senior management appointment (Director of Research) for Banner Health System, one of the largest hospital systems in the Western United States.

5. My full-time and part-time appointments have been in 23 disciplines or subdisciplines including, statistics, biostatistics, epidemiology, public health, social methodology, psychiatry, economics and biomedical informatics.

6. I have done extensive investigation into the existing research and epidemiological data on the transgender population.

7. Although I am a full-time academic researcher, over the last 40 years, I have testified in dozens of federal and state legal proceedings and regulatory proceedings. Most of them involved review of scientific literature in order to clarify the issues under examination in the

process. A list of my testimony is attached as Exhibit B.

8. I have also reviewed, as a methodologist hundreds of manuscripts submitted for publication to many of the major medical, statistical and epidemiological journals including *The New England Journal of Medicine* and *The Journal of the American Statistical Association*.

9. I am currently a Scholar in Residence, Department of Psychiatry, Johns Hopkins School of Medicine and a Professor of Statistics and Biostatistics, Arizona State University.

10. Up until the 1<sup>st</sup> of July, 2016, I also held part-time faculty appointments at the Johns Hopkins Bloomberg School of Public Health and School of Medicine, and at the Mayo Clinic, Scottsdale.

11. I may wish to supplement these opinions or the bases for them as a result of new scientific research or publications or in response to statements and issues that may arise in my area of expertise.

12. I am compensated at an hourly rate of \$400 per hour. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I provide.

### **Summary Opinions**

13. The concept of biological sex is well defined, based on the binary roles that males and females play in reproduction. By contrast, the concept of gender is not well defined. It is generally taken to refer to behaviors and psychological attributes that tend to be typical of a given sex. Some individuals identify as a gender that does not correspond to their biological sex. The causes of this identification remain poorly understood.

14. Research investigating whether these transgender individuals have certain physiological features or biological traits or experiences in common with the opposite sex,

such as brain structures or atypical prenatal hormone exposures, has so far been inconclusive.

15. Gender dysphoria—a sense of incongruence between one’s biological sex and one’s gender, accompanied by clinically significant distress or impairment.

16. Gender dysphoria is sometimes treated in adults by hormones or sex-reassignment surgery. There is little scientific evidence that these therapeutic interventions have psychological benefits and acceptable risks.

17. Science has shown that gender identity issues in children, if not encouraged (or even pressured) to change their gender, usually do not persist into adolescence or adulthood, and there is little scientific evidence for the therapeutic value of puberty-delaying pharmacologic treatments.

18. I am concerned about the lack of scientific support for the increasing trend toward encouraging children with gender identity issues to transition to expressing their gender through medical and then surgical procedures.

#### **“Sex,” “Gender,” and “Gender Identity”**

19. There seems to be a widely held popular belief that “gender identity”—the subjective, internal sense of being a man or a woman (or some other gender category)—is fixed at a very early age, or even at birth, and can diverge from a person’s biological sex. In the case of children, this is sometimes articulated by saying that a little boy may be trapped in a little girl’s body, or vice versa.

20. There is little scientific evidence that gender identity is fixed at an early age and none that it is present at birth. It is highly unlikely that newborns have any sense of themselves, let alone a sense of gender.

21. Though biological sex is fixed, and gender and biological sex are related in complex ways, they are not identical; gender is sometimes defined or expressed in ways that have little or nothing to do with biology.

22. To clarify what is meant by “gender” and “sex,” I refer to a widely used definition, here quoted from a pamphlet published by the American Psychological Association (APA):

*Sex* is assigned at birth, refers to one’s biological status as either male or female, and is associated primarily with physical attributes such as chromosomes, hormone prevalence, and external and internal anatomy. *Gender* refers to the socially constructed roles, behaviors, activities, and attributes that a given society considers appropriate for boys and men or girls and women. These influence the ways that people act, interact, and feel about themselves. While aspects of biological sex are similar across different cultures, aspects of gender may differ.<sup>1</sup>

This definition points to the obvious fact that there are social norms for men and women, norms that vary across different cultures and that are not simply determined by biology. But it goes further in holding that gender is almost entirely “socially constructed”, and thus, detached from biological sex.

23. In biology, an organism is male or female if it is structured to perform one of the respective roles in reproduction. This definition does not require any arbitrary measurable or quantifiable physical characteristics or behaviors; it requires understanding the reproductive system and the reproduction process. Different animals have different reproductive systems, but sexual reproduction occurs when the sex cells from the male and female of the species come together to form newly fertilized embryos. It is these reproductive roles that provide the conceptual basis for the differentiation of animals into the biological categories of male and female.

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<sup>1</sup> American Psychological Association, “Answers to Your Questions About Transgender People, Gender Identity and Gender Expression” (pamphlet), <http://www.apa.org/topics/lgbt/transgender.pdf>.

24. In mammals such as humans, the female gestates offspring and the male impregnates the female. More universally, the male of the species fertilizes the egg cells provided by the female of the species. This conceptual basis for sex roles is binary and stable, and allows us to distinguish males from females on the grounds of their reproductive systems, even when these individuals exhibit behaviors that are not typical of males or females.

25. Reproductive roles define the differences between the sexes even when behavior appears to be atypical for the particular sex. Consider, for example, the emperor penguin. Male emperor penguins provide warmth for eggs and nurturing of the young more than do females. In this sense, the male emperor penguin could be described as more maternal than the female.<sup>2</sup> However, we recognize that the male emperor penguin is not in fact female but rather that the species represents an exception to the general, but not universal, tendency among animals for females to provide more care than males for offspring. We recognize this because sex-typical behaviors such as nurturing do not define the sexes; the individual's role in sexual reproduction does.

26. Another example is that of Thomas Beatie, who made headlines as a man who gave live birth to three children between 2008 and 2010.<sup>3</sup> Thomas Beatie was born a woman, Tracy Lehuanani LaGondino, and underwent a surgical and legal transition to living as a man before deciding to have children. Because the medical procedures he underwent did not involve the removal of his ovaries or uterus, Beatie was capable of bearing children. The state of Arizona recognizes Thomas Beatie as the father of his three children, even though,

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<sup>2</sup> André Ancel, Michaël Beaulieu, and Caroline Gilbert, “The different breeding strategies of penguins: a review,” *Comptes Rendus Biologies* 336, no. 1 (2013): 6–7, <http://dx.doi.org/10.1016/j.crvi.2013.02.002>. Generally, male emperor penguins do the work of incubating the eggs and then caring for the chicks for several days after hatching. After that point, males and females take turns caring for the chicks.

<sup>3</sup> For an overview of Thomas Beatie’s story, see his book, *Labor of Love: The Story of One Man’s Extraordinary Pregnancy* (Berkeley: Seal Press, 2008).

biologically, he is their mother. Unlike the case of the male emperor penguin's ostensibly maternal, "feminine" parenting behavior, Beatie's ability to have children does not represent an exception to the normal inability of males to bear children. The labeling of Beatie as a man despite his being biologically female is a personal, social, and legal decision that was made without any basis in biology; nothing whatsoever in biology suggests Thomas Beatie is a male.

27. Scientifically speaking, transgender men are not biological men and transgender women are not biological women. The claims to the contrary are not supported by a scintilla of scientific evidence.

28. This definition of biological sex is not universally accepted. For example, philosopher and legal scholar Edward Stein maintains that infertility prohibits defining sex in terms of reproductive roles claiming that defining sex in terms of these roles would define "infertile males as females"<sup>4</sup> or postmenopausal females would be considered males.

29. Biological sex can still be defined strictly in terms of the structure of reproductive systems. Infertility can be caused by many problems. However, the reproductive system continues to exist for the purpose of producing children. Another point can be made about heterosexual couples who choose not to reproduce for any of a variety of reasons. The male and female reproductive systems are generally clearly recognizable, regardless of whether or not they are being used for purposes of reproduction.

30. The first major academic article to use the term "gender" appears to be the 1955 paper by the psychiatry professor John Money of Johns Hopkins on the treatment of

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<sup>4</sup> Edward Stein, *The Mismeasure of Desire: The Science, Theory, and Ethics of Sexual Orientation* (New York: Oxford University Press, 1999), 31.

“intersex” children (the term then used was “hermaphrodites”).<sup>5</sup> “Intersex” conditions refer to disorders of sexual development (“DSDs”) that render an individual’s sexual anatomy ambiguous. For example, the clitoris and penis are derived from the same embryonic structures. A baby may display an abnormally large clitoris or an abnormally small penis, causing its biological sex to be difficult to determine long after birth.

31. Money posited that gender identity, at least for intersex children, was fluid and that it could be constructed. In his mind, making a child identify with a gender only required constructing sex-typical genitalia and creating a gender-appropriate environment for the child. The chosen gender for these children was often female—a decision that was not based on genetics or biology, nor on the belief that these children were “really” girls, but, in part, on the fact that at the time it was easier surgically to construct a vagina than it was to construct a penis.

32. The most widely known patient of Dr. Money was David Reimer, a boy who was not born with an intersex condition but whose penis was damaged during circumcision as an infant.<sup>6</sup> David was raised by his parents as a girl named Brenda, and provided with both surgical and hormonal interventions to ensure that he would develop female-typical sex characteristics. However, the attempt to conceal from the child what had happened to him was not successful—he self-identified as a boy, and eventually, at the age of 14, his psychiatrist recommended to his parents that they tell him the truth. David then began the difficult process of reversing the hormonal and surgical interventions that had been performed to feminize his body. But he continued to be tormented by his childhood ordeal,

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<sup>5</sup> John Money, “Hermaphroditism, gender and precocity in hyperadrenocorticism: psychologic findings,” *Bulletin of the Johns Hopkins Hospital* 95, no. 6 (1955): 253–264, <http://www.ncbi.nlm.nih.gov/pubmed/14378807>.

<sup>6</sup> An account of the David Reimer story can be found in John Colapinto, *As Nature Made Him: The Boy Who Was Raised as a Girl* (New York: Harper Collins, 2000).

and took his own life in 2004, at the age of 38.

33. David Reimer is just one example of the harm wrought by theories that gender can socially and medically be reassigned in children. Biological sex is not a concept that can be reduced to, or artificially assigned on, the basis of the type of external genitalia alone. Genitalia correlates highly with, but it is not completely predictive, of the role in reproduction

34. Surgeons are becoming more capable of constructing artificial genitalia, but these anatomical alterations do not change the biological sex of the recipients, who are no more capable of playing the reproductive roles of the opposite biological sex than they were without the surgery. Nor does biological sex change as a function of the environment provided for the child. No degree of supporting a little boy in converting to be considered, by himself and others, to be a little girl makes him biologically a little girl. The scientific definition of biological sex is, for almost all human beings, clear, binary, and stable, reflecting an underlying biological reality that is not contradicted by exceptions to sex-typical behavior, and cannot be altered by surgery or social conditioning.

35. Research by William G. Reiner, a pediatric urologist and child and adolescent psychiatrist, and John P. Gearhart, a professor of pediatric urology indicates that gender is not arbitrary; it suggests that a biological male (or female) will probably not come to identify as the opposite gender after having been altered physically and immersed into the corresponding gender-typical environment. The plasticity of gender appears to have a limit.

36. In a 2004 paper, Reiner and Gearhart followed up on the sexual identities of 16 genetic males affected by cloacal exstrophy—a condition involving a badly deformed bladder and genitals. Of the 16 subjects, 14 were assigned female sex at birth, receiving

surgical interventions to construct female genitalia, and were raised as girls by their parents; 6 of these 14 later chose to identify as males, while 5 continued to identify as females. Two individuals declared themselves males at a young age but continued to be raised as females because their parents rejected the children's declarations. The remaining subject, who had been told at age 12 that he was born male, refused to discuss sexual identity.<sup>7</sup> So the assignment of female sex persisted in only 5 of the 13 cases with known results.

37. This lack of persistence is some evidence that the assignment of sex through genital construction at birth with immersion into a "gender-appropriate" environment is not likely to be a successful option for managing the rare problem of genital ambiguity from birth defects. This suggests that gender identity can be a complex and burdensome issue for those who choose (or have others choose for them) a gender identity opposite their biological sex. It is important to note that the ages of these individuals at last follow-up ranged from 9 to 19, so it is possible that more of them may have subsequently changed their gender identities.

38. In a 2004 article summarizing the results of research related to intersex conditions, Paul McHugh, the former chief of psychiatry at Johns Hopkins Hospital, suggested:

We in the Johns Hopkins Psychiatry Department eventually concluded that human sexual identity is mostly built into our constitution by the genes we inherit and the embryogenesis we undergo. Male hormones sexualize the brain and the mind. Sexual dysphoria—a sense of disquiet in one's sexual role—naturally occurs amongst those rare males who are raised as females in an effort to correct an infantile genital structural problem.<sup>8</sup>

39. Gender has been defined in terms of sex-typical traits and behaviors. Thus, being a

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<sup>7</sup> William G. Reiner and John P. Gearhart, "Discordant Sexual Identity in Some Genetic Males with Cloacal Exstrophy Assigned to Female Sex at Birth," *New England Journal of Medicine*, 350 (January 2004): 333–341, <http://dx.doi.org/10.1056/NEJMoa022236>.

<sup>8</sup> Paul McHugh, "Surgical Sex: Why We Stopped Doing Sex Change Operations," *First Things* (November 2004): 37, <http://www.firstthings.com/article/2004/11/surgical-sex>.

boy means behaving in the ways boys typically behave—such as engaging in rough-and-tumble play and expressing an interest in sports and liking toy guns more than dolls. But this would imply that a boy who plays with dolls, hates guns, and refrains from sports or rough-and-tumble play might be considered to be a girl, rather than a boy who represents an exception to the typical patterns of male behavior. Sex-typical behavior is a poor means of identifying gender. Gender identity relies on an understanding of maleness and femaleness that is independent of these stereotypical “sex-appropriate” behaviors.

40. Scientific assertions that gender identity is innate or fixed at a young age and that gender identity has a strong biological basis are simply unsubstantiated. Scientific evidence shows that gender identity is fluid in childhood and can not be defined in terms of biology.

### **Gender Dysphoria and Transgenderism in Adults and Children**

41. As a way of surveying the biological and social science research on gender dysphoria, I can list a number of important questions:

- \* Are there biological factors that influence the development of a gender identity that does not correspond with one's biological sex?
- \* Are some individuals born with a gender identity different from their biological sex?
- \* Is gender identity shaped by environmental or nurturing conditions?
- \* How stable are choices of gender identity?
- \* How common is gender dysphoria? Is it persistent across the lifespan?
- \* Can a little boy who thinks he is a little girl change over the course of his life to regard himself as male? If so, how often can such people change their gender identities?
- \* How would someone's gender identity be measured scientifically?
- \* Does self-understanding suffice? Does a biological girl become a gender boy by believing, or at least stating, she is a little boy?

- \* Do people's struggles with a sense of incongruity between their gender identity and biological sex persist over the life course?
- \* Does gender dysphoria respond to psychiatric interventions? Should those interventions focus on affirming the gender identity of the patient or take a more neutral stance?
- \* Do efforts to hormonally or surgically modify an individual's primary or secondary sex characteristics help resolve gender dysphoria?
- \* Does modification create further psychiatric problems for some of those diagnosed with gender dysphoria, or does it typically resolve existing psychiatric problems?

42. While biological sex is, with very few exceptions, a well-defined, binary trait (male versus female) corresponding to how the body is organized for reproduction, "gender identity" is a more subjective attribute. For most people, their own gender is undoubtedly not a topic of concern; most biological males identify as boys or men, and most biological females identify as girls or women. However, some individuals experience an incongruence between their biological sex and their gender identity. If this struggle causes them to seek professional help, then the problem is classified as "gender dysphoria."

43. The cases of gender dysphoria that are the subject of much public debate are those in which an individual comes to identify as a gender different from their biological sex. These people are usually identified, and describe themselves, as "transgender."<sup>9</sup>

44. According to the fifth edition of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)*, gender dysphoria is marked by

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<sup>9</sup> A note on terminology: I generally use the term *transgender* to refer to persons for whom there is an incongruity between the gender identity they understand themselves to possess and their biological sex. We use the term *transsexual* to refer to individuals who have undergone medical interventions to transform their appearance to better correspond with that of their preferred gender. The most familiar colloquial term used to describe the medical interventions that transform the appearance of transgender individuals may be "sex change" (or, in the case of surgery, "sex-change operation"), but this is not commonly used in the scientific and medical literature today. While no simple terms for these procedures are completely satisfactory, in this declaration I employ the commonly used terms *sex reassignment* and *sex-reassignment surgery*, except when quoting a source that uses "gender reassignment" or some other term.

“incongruence between one’s experienced/expressed gender and assigned gender,” as well as “clinically significant distress or impairment in social, occupational, or other important areas of functioning.”<sup>10</sup>

45. It is important to clarify that gender dysphoria is not the same as gender nonconformity or gender identity disorder. Gender nonconformity describes an individual who behaves in a manner contrary to the gender-specific norms of his or her biological sex. As the *DSM-5* notes, most transvestites, for instance, are not transgender—men who dress as women typically do not identify themselves as women.<sup>11</sup> (However, certain forms of transvestism can be associated with late-onset gender dysphoria.<sup>12</sup>) Gender identity disorder, is an obsolete term from an earlier version of the *DSM* that was removed in its fifth edition. It was used as a psychiatric diagnosis. If we compare the diagnostic criteria for gender dysphoria (the current term) and gender identity disorder (the former term), we see that both require the patient to display “a marked incongruence between one’s experienced/expressed gender and assigned gender.”<sup>13</sup> The key difference is that a diagnosis of gender dysphoria requires the patient additionally to experience a “clinically significant distress or impairment in social, occupational, or other important areas of functioning” associated with these incongruent feelings.<sup>14</sup> Thus the major set of diagnostic criteria used in contemporary psychiatry does not designate all transgender individuals as having a psychiatric disorder. For example, a biological male who identifies himself as a female is not considered to have a

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<sup>10</sup> American Psychiatric Association, “Gender Dysphoria,” *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* [hereafter *DSM-5*] (Arlington, Va.: American Psychiatric Publishing, 2013), 452, <http://dx.doi.org/10.1176/appi.books.9780890425596.dsm14>.

<sup>11</sup> *Ibid.*, 458.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*, 452.

<sup>14</sup> *Ibid.*

psychiatric disorder unless the individual is experiencing significant psychosocial distress at the incongruence. A diagnosis of gender dysphoria may be part of the criteria used to justify sex-reassignment surgery or other clinical interventions. Furthermore, a patient who has had medical or surgical modifications to express his or her gender identity may still suffer from gender dysphoria. It is the nature of the struggle that defines the disorder, not the fact that the expressed gender differs from the biological sex. There is no scientific evidence, nor is it likely, that all transgender people have gender dysphoria, or that they are all struggling with their gender identities. Some individuals who are not transgender—that is, who do not identify as a gender that does not correspond with their biological sex—might nonetheless struggle with their gender identity; for example, girls who behave in some male-typical ways might experience various forms of distress without ever coming to identify as boys.

Conversely, individuals who do identify as a gender that does not correspond with their biological sex may not experience clinically significant distress related to their gender identity. Even if only, say, 40% of individuals who identify as a gender that does not correspond with their biological sex experience significant distress related to their gender identity, this would constitute a public health issue requiring clinicians and others to act to support those with gender dysphoria, and hopefully, to reduce the rate of gender dysphoria in the population. There is no evidence to suggest that the other 60% in this hypothetical—that is, the individuals who identify as a gender that does not correspond with their biological sex but who do not experience significant distress—would require clinical treatment.

46. The *DSM-5* criteria for a diagnosis of gender dysphoria in children are defined in a “more concrete, behavioral manner than those for adolescents and adults.”<sup>15</sup> This is to say

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<sup>15</sup> *Ibid.*, 454–455.

that some of the diagnostic criteria for gender dysphoria in children refer to behaviors that are stereotypically associated with the opposite gender. Clinically significant distress is still necessary for a diagnosis of gender dysphoria in children, but some of the other diagnostic criteria include, for instance, a “strong preference for the toys, games, or activities stereotypically used or engaged in by the other gender.”<sup>16</sup> What of girls that are “tomboys” or boys who are not oriented toward violence and guns, who prefer quieter play? Should parents worry that their tomboy daughter is really a boy stuck in a girl’s body?

47. The *DSM-5* criterion for diagnosing gender dysphoria by reference to gender-typical play preferences is unsound; it appears to ignore the fact that a child could display an *expressed* gender—manifested by social or behavioral traits—incongruent with the child’s biological sex but without *identifying* as the opposite gender. There is no scientific basis for believing that playing with toys typical of boys defines a child as a boy, or that playing with toys typical of girls defines a child as a girl.

48. Furthermore, even for children who do identify as a gender opposite their biological sex, diagnoses of gender dysphoria are simply unreliable. The reality is that they may have psychological difficulties in accepting their biological sex as their gender. Children can have difficulty with the expectations associated with those gender roles. Traumatic experiences can also cause a child to express distress with the gender associated with his or her biological sex.

49. Gender identity problems can also arise with intersex conditions<sup>17</sup> (the presence of

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<sup>16</sup> *Ibid.*, 452.

<sup>17</sup> American Psychiatric Association, “Gender Dysphoria,” *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (Arlington, Va.: American Psychiatric Publishing, 2014), <http://dx.doi.org/10.1176/appi.books.9781585625048.gg39>.

ambiguous genitalia due to genetic abnormalities), which were discussed earlier. These disorders of sex development, while rare, can contribute to gender dysphoria in some cases.<sup>18</sup>

50. A review of the neurobiological and genetic research on gender and gender identity provides virtually no evidence that the gender or gender identity has a biological basis.

51. Interpretations, usually in popular outlets, claiming or suggesting that a statistically significant difference between the brains of people who are transgender and those who are not is the cause of being transgendered or not—that is to say, that biological differences determine the differences in gender identity—are unwarranted. Current studies on associations between brain structure and transgender identity are small, methodologically limited, inconclusive, and sometimes contradictory. Even if they were more methodologically reliable, they would be insufficient to demonstrate that brain structure is a cause, rather than an effect, of the gender-identity behavior. They would likewise lack predictive power, the real challenge for any theory in science.

52. While there are many cases of gender dysphoria that are not associated with these identifiable intersex conditions, gender dysphoria may still represent a different type of intersex condition in which the primary sex characteristics such as genitalia develop normally while secondary sex characteristics associated with the brain develop along the lines of the opposite sex. Controversy exists over influences determining the nature of neurological, psychological, and behavioral sex differences. The emerging consensus is that there may be some differences in patterns of neurological development in- and ex-utero for men and women.<sup>i</sup> Therefore, in theory, transgender individuals could be subject to conditions allowing a more female-type brain to develop within a genetic male (having the XY chromosomal patterns), and vice versa. However, as we will show in the next section, Although emerging consensus recognizes that there may be some differences in patterns of neurological development in- and ex-utero for men and women,<sup>ii</sup> research supporting the

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<sup>18</sup> *Ibid.*, 457.

idea that such influences could account for transgenderism is quite minimal.

53. Robert Sapolsky, a Stanford professor of biology who has done extensive neuroimaging research, suggested a possible neurobiological explanation for transgenderism in a 2013 *Wall Street Journal* article, “Caught Between Male and Female.” He asserted that recent neuroimaging studies of the brains of transgender adults suggest that they may have brain structures more similar to their gender identity than to their biological sex.<sup>iii</sup> Sapolsky bases this assertion on the fact that there are differences between male and female brains, and while the differences are “small and variable,” they “probably contribute to the sex differences in learning, emotion and socialization.”<sup>iv</sup> He concludes: “The issue isn’t that sometimes people believe they are of a different gender than they actually are. Remarkably, instead, it’s that sometimes people are born with bodies whose gender is different from what they actually are.”<sup>v</sup> In other words, he claims that some people can have a female-type brain in a male body, or vice versa.

54. While this kind of neurobiological theory of transgenderism remains outside of the scientific mainstream, it has recently received extensive popular attention. It provides a potentially attractive explanation for transgenderism, especially for individuals who are not affected by any known genetic, hormonal, or psychosocial abnormalities.<sup>vi</sup> However, there is fairly little support in the scientific literature for Sapolsky’s contention. His neurological explanation for differences between male and female brains, and those differences’ possible relevance to transgenderism warrant further scientific consideration. There are many small studies that attempt to define causal factors of transgenderism, or of the experience of incongruence between one’s biological sex and felt gender. These studies are described in the following pages, each pointing to an influence that may contribute to the explanation for transgenderism, or gender dysphoria.

55. Nancy Segal, a psychologist and geneticist, researched two case studies of identical twins discordant for female-to-male (FtM) transsexualism.<sup>vii</sup> Segal notes that, according to another, earlier study that conducted nonclinical interviews with 45 FtM transsexuals, 60% suffered some form of childhood abuse, with 31% experiencing sexual abuse, 29% experiencing emotional abuse, and 38%

physical abuse.<sup>viii</sup> However, this earlier study did not include a control group and was limited by its small sample size, making it difficult to extract significant interactions, or generalizations, from the data.

56. Segal's own first case study was of a 34-year-old FtM twin, whose identical twin sister was married and the mother of seven children.<sup>ix</sup> Several stressful events had occurred during the twins' mother's pregnancy, and they were born five weeks prematurely. When they were eight years old, their parents divorced. The FtM twin exhibited gender-nonconforming behavior early and it persisted throughout childhood. She became attracted to other girls in junior high school and as a teenager attempted suicide several times. She reported physical abuse and emotional abuse at the hand of her mother. The twins were raised in a Mormon household, in which transsexuality was not tolerated.<sup>x</sup> The twin sister had never questioned her gender identity but did experience some depression. For Segal, the FtM twin's gender nonconformity and abuse in childhood were factors that contributed to gender dysphoria; the other twin was not subject to the same stressors in childhood, and did not develop issues around her gender identity. Segal's second case study also concerned identical twins with one twin transitioning from female to male.<sup>xi</sup> This FtM twin had early-onset nonconforming behaviors and attempted suicide as a young adult. At age 29 she underwent reassignment surgery, was well supported by family, met a woman, and married. As in the first case, the other twin was reportedly always secure in her female gender identity.

57. Segal speculates that each set of twins may have had uneven prenatal androgen exposures (although her study did not offer evidence to support this)<sup>xii</sup> and concludes that "Transsexualism is unlikely to be associated with a major gene, but is likely to be associated with multiple genetic, epigenetic, developmental and experiential influences."<sup>xiii</sup> Segal is critical of the notion that the maternal abuse experienced by the FtM twin in her first case study may have played a causal role in the twin's "atypical gender identification" since the abuse "apparently followed" the twin's gender-atypical behaviors—though Segal acknowledges "it is possible that this abuse reinforced his already atypical gender identification."<sup>xiv</sup> These case studies, while informative, are not scientifically strong,

and do not provide direct evidence for any causal hypotheses about the origins of atypical gender identification.

58. A source of more information—but also inadequate to make direct causal inferences—is a case analysis by Mayo Clinic psychiatrists J. Michael Bostwick and Kari A. Martin of an intersex individual born with ambiguous genitalia who was operated on and raised as a female.<sup>xv</sup> By way of offering some background, the authors draw a distinction between gender identity disorder (an “inconsistency between perceived gender identity and phenotypic sex” that generally involves “no discernible neuroendocrinological abnormality”<sup>xvi</sup>), and intersexuality (a condition in which biological features of both sexes are present). They also provide a summary and classification scheme of the various types of intersex disorders. After a thorough discussion of the various intersex developmental issues that can lead to a disjunction between the brain and body, the authors acknowledge that “Some adult patients with severe dysphoria—transsexuals—have neither history nor objective findings supporting a known biological cause of brain-body disjunction.”<sup>xvii</sup> These patients require thorough medical and psychiatric attention to avoid gender dysphoria.

59. After this helpful summary, the authors state that “Absent psychosis or severe character pathology, patients’ subjective assertions are presently the most reliable standards for delineating core gender identity.”<sup>xviii</sup> But it is not clear how we could consider subjective assertions more reliable in establishing gender identity, unless gender identity is defined as a completely subjective phenomenon. The bulk of the article is devoted to describing the various objectively discernible and identifiable ways in which one’s identity as a male or female is imprinted on the nervous and endocrine system. Even when something goes wrong with the development of external genitalia, individuals are more likely to act in accordance with their chromosomal and hormonal makeup.<sup>xix</sup>

60. In 2011, Giuseppina Rametti and colleagues from various research centers in Spain used MRI to study the brain structures of 18 FtM transsexuals who exhibited gender nonconformity early in life and experienced sexual attraction to females prior to hormone treatment.<sup>xx</sup> The goal was to learn whether their brain features corresponded more to their biological sex or to their sense of

gender identity. The control group consisted of 24 male and 19 female heterosexuals with gender identities conforming to their biological sex. Differences were noted in the white matter microstructure of specific brain areas. In untreated FtM transsexuals, that structure was more similar to that of heterosexual males than to that of heterosexual females in three of four brain areas.<sup>xxi</sup> In a complementary study, Rametti and colleagues compared 18 MtF transsexuals to 19 female and 19 male heterosexual controls.<sup>xxii</sup> These MtF transsexuals had white matter tract averages in several brain areas that fell between the averages of the control males and the control females. The values, however, were typically closer to the males (that is, to those that shared their biological sex) than to the females in most areas.<sup>xxiii</sup> In controls the authors found that, as expected, the males had greater amounts of gray and white matter and higher volumes of cerebrospinal fluid than control females. The MtF transsexual brain volumes were all similar to those of male controls and significantly different from those of females.<sup>xxiv</sup>

61. Overall, the findings of these studies by Rametti and colleagues do not sufficiently support the notion that transgender individuals have brains more similar to their preferred gender than to the gender corresponding with their biological sex. Both studies are limited by small sample sizes and lack of a prospective hypothesis—both analyzed the MRI data to find the gender differences and then looked to see where the data from transgender subjects fit.

62. Whereas both of these MRI studies looked at brain *structure*, a functional MRI study by Emiliano Santarecchi and colleagues from the University of Siena and the University of Florence looked at brain *function*, examining gender-related differences in spontaneous brain activity during the resting state.<sup>xxv</sup> The researchers compared a single FtM individual (declared cross-gender since childhood), and control groups of 25 males and 25 females, with regard to spontaneous brain activity. The FtM individual demonstrated a “brain activity profile more close to his biological sex than to his desired one,” and based in part on this result the authors concluded that “untreated FtM transsexuals show a functional connectivity profile comparable to female control subjects.”<sup>xxvi</sup> With a sample size of one, this study’s statistical power is virtually zero.

63. In 2013, Hsiao-Lun Ku and colleagues from various medical centers and research institutes in Taiwan also conducted functional brain imaging studies. They compared the brain activity of 41 transsexuals (21 FtMs, 20 MtFs) and 38 matched heterosexual controls (19 males and 19 females).<sup>xxvii</sup> Arousal response of each cohort while viewing neutral as compared to erotic films was compared between groups. All of the transsexuals in the study reported sexual attractions to members of their natal, biological sex, and exhibited more sexual arousal than heterosexual controls when viewing erotic films that depicted sexual activity between subjects sharing their biological sex. A “selfness” score was also incorporated into the study, in which the researchers asked participants to “rate the degree to which you identify yourself as the male or female in the film.”<sup>xxviii</sup> The transsexuals in the study identified with those of their preferred gender more than the controls identified with those of their biological gender, in both erotic films and neutral films. The heterosexual controls did not identify themselves with either males or females in either of the film types. Ku and colleagues claim to have demonstrated characteristic brain patterns for sexual attraction as related to biological sex but did not make meaningful neurobiological gender-identity comparisons among the three cohorts. In addition, they reported findings that transsexuals demonstrated psychosocial maladaptive defensive styles.

64. A 2008 study by Hans Berglund and colleagues from Sweden’s Karolinska Institute and Stockholm Brain Institute used PET and fMRI scans to compare brain-area activation patterns in 12 MtF transgendered individuals who were sexually attracted to women with those of 12 heterosexual women and 12 heterosexual men.<sup>xxix</sup> The first set of subjects took no hormones and had not undergone sex-reassignment surgery. The experiment involved smelling odorous steroids thought to be female pheromones, and other sexually neutral odors such as lavender oil, cedar oil, eugenol, butanol, and odorless air. The results were varied and mixed between the groups for the various odors, which should not be surprising, since *post hoc* analyses usually lead to contradictory findings.

65. The studies presented above show inconclusive evidence and mixed findings regarding the brains of transgender adults. Brain-activation patterns in these studies do not offer sufficient

evidence for drawing sound conclusions about possible associations between brain activation and sexual identity or arousal. The results are conflicting and confusing. Since the data by Ku and colleagues on brain-activation patterns are not universally associated with a particular sex, it remains unclear whether and to what extent neurobiological findings say anything meaningful about gender identity.

66. It is important to note that regardless of their findings, studies of this kind cannot support any conclusion that individuals come to identify as a gender that does not correspond to their biological sex because of an innate, biological condition of the brain. In most cases transgender individuals have been acting and thinking for years in ways that, through learned behavior and associated neuroplasticity—the fact that external stimuli can change the brain—may have produced brain changes that could differentiate them from other members of their biological or natal sex.

67. The only definitive way to establish epidemiological causality between a brain feature and a trait (especially one as elusive and vague as gender identity) would be to conduct prospective, longitudinal, preferably randomly sampled and population-based studies. The question is not simply whether there are differences between the brains of transgender individuals and people identifying with the gender corresponding to their biological sex, but whether gender identity is a fixed, innate, and biological trait, even when it does not correspond to biological sex, or whether environmental or psychological causes contribute to the development of a sense of gender identity in such cases. Neurological differences in transgender adults might be the consequence of biological factors such as genes or prenatal hormone exposure, or of psychological and environmental factors such as childhood abuse, or they could result from some combination of the two.

68. There are no serial, longitudinal, or prospective studies looking at the brains of cross-gender identifying children who develop to later identify as transgender adults. Lack of this research severely limits our ability to understand causal relationships between brain morphology, or functional activity, and the later development of gender identity different from biological sex.

69. More generally, it is now widely recognized among psychiatrists and neuroscientists who

engage in brain imaging research that there are inherent and ineradicable methodological limitations of *any* neuroimaging study that simply associates a particular trait, such as a certain behavior, with a particular brain morphology.<sup>xxx</sup> (And when the trait in question is not a concrete behavior but something as elusive and vague as “gender identity,” these methodological problems are even more serious.) These studies cannot provide statistical evidence nor show a plausible biological mechanism strong enough to support *causal connections* between a brain feature and the trait, behavior, or symptom in question. To support a conclusion of causality, even epidemiological causality, we need to conduct prospective longitudinal panel studies of a fixed set of individuals across the course of sexual development if not their lifespan.

70. Studies like these would use serial brain images at birth, in childhood, and at other points along the developmental continuum, to see whether brain morphology findings were there from the beginning. Otherwise, we cannot establish whether certain brain features caused a trait, or whether the trait is innate and perhaps fixed. Studies like those discussed above of individuals who already exhibit the trait are incapable of distinguishing between *causes* and *consequences* of the trait. In the absence of such prospective longitudinal studies, large representative population-based samples with adequate statistical controls for confounding factors may help narrow the possible causes of a behavioral trait and thereby increase the probability of identifying a neurological cause.<sup>xxxii</sup> However, because the studies conducted thus far use small convenience samples, none of them is especially helpful for narrowing down the options for causality. To obtain a better study sample, we would need to include neuroimaging in large-scale epidemiological studies. In fact, given the small number of transgender individuals in the general population,<sup>xxxiii</sup> the studies would need to be prohibitively large to attain findings that would reach statistical significance. Moreover, if a study found significant differences between these groups—that is, a number of differences higher than what would be expected by chance alone—these differences would refer to the average in a population of each group. Even if these two *groups* differed significantly for all 100 measurements, it would not necessarily indicate a biological difference among *individuals* at the extremes of the distribution.

Thus, a randomly selected transgender individual and a randomly selected non-transgender individual might not differ on any of these 100 measurements. Additionally, since the probability that a randomly selected person from the general population will be transgender is quite small, statistically significant differences in the sample means are not sufficient evidence to conclude that a particular measurement is predictive of whether the person is transgender or not. If we measured the brain of an infant, toddler, or adolescent and found this individual to be closer to one cohort than another on these measures, it would not imply that this individual would grow up to identify as a member of that cohort. It may be helpful to keep this caveat in mind when interpreting research on transgender individuals. In this context, it is important to note that there are no studies that demonstrate that any of the biological differences being examined have predictive power, and so all interpretations, usually in popular outlets, claiming or suggesting that a statistically significant difference between the brains of people who are transgender and those that are not is the cause of being transgendered or not—that is to say, that the biological differences determine the differences in gender identity—are unwarranted.

71. In short, the current studies on associations between brain structure and transgender identity are small, methodologically limited, inconclusive, and sometimes contradictory. Even if they were more methodologically reliable, they would be insufficient to demonstrate that brain structure is a cause, rather than an effect, of the gender-identity behavior. They would likewise lack predictive power, the real challenge for any theory in science.

72. For a simple example to illustrate this point, suppose we had a room with 100 people in it. Two of them are transgender and all others are not. I pick someone at random and ask you to guess the person's gender identity. If you know that 98 out of 100 of the individuals are not transgender, the safest bet would be to guess that the individual is not transgender, since that answer will be correct 98% of the time. Suppose, then, that you have the opportunity to ask questions about the neurobiology and about the natal sex of the person. Knowing the biology only helps in predicting whether the individual is transgender if it can improve on the original guess that the person is not

transgender. So if knowing a characteristic of the individual's brain does not improve the ability to predict what group the patient belongs to, then the fact that the two groups differ at the mean is almost irrelevant. Improving on the original prediction is very difficult for a rare trait such as being transgender, because the probability of that prediction being correct is already very high. If there really were a clear difference between the brains of transgender and non-transgender individuals, akin to the biological differences between the sexes, then improving on the original guess would be relatively easy. Unlike the differences between the sexes, however, there are no biological features that can reliably identify transgender individuals as different from others.

73. The consensus of scientific evidence overwhelmingly supports the proposition that a physically and developmentally normal boy or girl is indeed what he or she appears to be at birth. The available evidence from brain imaging and genetics does not demonstrate that the development of gender identity as different from biological sex is innate. Because scientists have not established a solid framework for understanding the causes of cross-gender identification, ongoing research should be open to psychological and social causes, as well as biological ones.

74. More generally, it is now widely recognized among psychiatrists and neuroscientists who engage in brain imaging research that there are inherent and ineradicable methodological limitations of *any* neuroimaging study that simply associates a particular trait, such as a certain behavior, with a particular brain morphology.<sup>19</sup> (And when the trait in question is not a concrete behavior but something as elusive and vague as "gender identity," these methodological problems are even more serious.) These studies cannot provide statistical evidence nor show a plausible biological mechanism strong enough to support *causal connections* between a brain feature and the trait, behavior, or symptom in question. To support a conclusion of causality, even epidemiological causality, we need to conduct prospective longitudinal panel studies of a fixed set of individuals across the course of sexual development if not their lifespan.

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<sup>19</sup> See, for example, Sally Satel and Scott D. Lilienfeld, *Brainwashed: The Seductive Appeal of Mindless Neuroscience*, (New York: Basic Books, 2013).

75. The consensus of scientific evidence overwhelmingly supports the proposition that a physically and developmentally normal boy or girl is indeed what he or she appears to be at birth. The available evidence from brain imaging and genetics does not demonstrate that the development of gender identity as different from biological sex is innate. Because scientists have not established a solid framework for understanding the causes of cross-gender identification, ongoing research should be open to psychological and social causes, as well as biological ones.

### **Treatment of Gender Dysphoria in Children and Adolescents**

76. Popular notion has inspired a gender-affirming approach to children who experience gender identity issues at an early age, but there is little evidence that gender identity issues have a high rate of persistence in children. According to the *DSM-5*, “In natal [biological] males, persistence [of gender dysphoria] has ranged from 2.2% to 30%. In natal females, persistence has ranged from 12% to 50%.”<sup>20</sup> Scientific data on persistence of gender dysphoria remains sparse due to the very low prevalence of the disorder in the general population, but the wide range of findings in the literature suggests that there is still much that we do not know about why gender dysphoria persists or desists in children. As the *DSM-5* entry goes on to note, “It is unclear if children ‘encouraged’ or supported to live socially in the desired gender will show higher rates of persistence, since such children have not yet been followed longitudinally in a systematic manner.”<sup>21</sup> There is a clear need for more research in these areas, and for parents and therapists to acknowledge the great uncertainty regarding how to interpret the behavior of these children.

77. With the uncertainty surrounding the diagnosis of and prognosis for gender dysphoria in children, therapeutic decisions are particularly complex and difficult. Therapeutic interventions for children must take into account the probability that the children may outgrow cross-gender

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<sup>20</sup> American Psychiatric Association, “Gender Dysphoria,” *DSM-5*, 455. Note: Although the quotation comes from the *DSM-5* entry for “gender dysphoria” and implies that the listed persistence rates apply to that precise diagnosis, the diagnosis of gender dysphoria was formalized by the *DSM-5*, so some of the studies from which the persistence rates were drawn may have employed earlier diagnostic criteria.

<sup>21</sup> *Ibid.*, 455.

identification.

78. University of Toronto researcher and therapist Kenneth Zucker believes that family and peer dynamics can play a significant role in the development and persistence of gender-nonconforming behavior, writing that

it is important to consider both predisposing and perpetuating factors that might inform a clinical formulation and the development of a therapeutic plan: the role of temperament, parental reinforcement of cross-gender behavior during the sensitive period of gender identity formation, family dynamics, parental psychopathology, peer relationships and the multiple meanings that might underlie the child's fantasy of becoming a member of the opposite sex.<sup>22</sup>

79. Zucker worked for decades with children experiencing feelings of gender incongruence, offering psychosocial treatments to help them embrace the gender corresponding with their biological sex—for instance, talk therapy, parent-arranged play dates with same-sex peers, therapy for co-occurring psychopathological issues such as autism spectrum disorder, and parent counseling.<sup>23</sup>

80. In a follow-up study by Zucker and colleagues of children treated by them over the course of thirty years at the Center for Mental Health and Addiction in Toronto, they found that gender identity disorder persisted in only 3 of the 25 girls they had treated.<sup>24</sup> (Zucker's clinic was closed by the Canadian government in 2015.<sup>25</sup>)

81. An alternative to Zucker's approach that emphasizes affirming the child's preferred gender

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<sup>22</sup> Kenneth J. Zucker, "Children with gender identity disorder: Is there a best practice?," *Neuropsychiatrie de l'Enfance et de l'Adolescence* 56, no. 6 (2008): 363, <http://dx.doi.org/10.1016/j.neurenf.2008.06.003>.

<sup>23</sup> Kenneth J. Zucker *et al.*, "A Developmental, Biopsychosocial Model for the Treatment of Children with Gender Identity Disorder," *Journal of Homosexuality* 59, no. 2 (2012), <http://dx.doi.org/10.1080/00918369.2012.653309>. For an accessible summary of Zucker's approach to treating gender dysphoria in children, see J. Michael Bailey, *The Man Who Would Be Queen: The Science of Gender-Bending and Transsexualism* (Washington, D.C.: Joseph Henry Press, 2003), 31–32.

<sup>24</sup> Kelley D. Drummond *et al.*, "A follow-up study of girls with gender identity disorder," *Developmental Psychology* 44, no. 1 (2008): 34–45, <http://dx.doi.org/10.1037/0012-1649.44.1.34>.

<sup>25</sup> Jesse Singal, "How the Fight Over Transgender Kids Got a Leading Sex Researcher Fired," *New York Magazine*, February 7, 2016, <http://nymag.com/scienceofus/2016/02/fight-over-trans-kids-got-a-researcher-fired.html>.

identity has become more common among therapists.<sup>26</sup> This approach involves helping the children to self-identify even more with the opposite sex.

82. One component of the gender-affirming approach has been the use of hormone treatments for adolescents in order to delay the onset of sex-typical characteristics during puberty and alleviate the feelings of dysphoria the adolescents will experience as their bodies develop sex-typical characteristics that are at odds with the gender with which they identify. There is relatively little evidence for the therapeutic value of these kinds of puberty-delaying treatments, but they are currently the subject of a large clinical study sponsored by the National Institutes of Health.<sup>27</sup>

83. The purpose of pubertal suppression with medications is to delay the onset of puberty in order to allow more time for the individual to make their decision as to their “gender identity.” Often it is a legal requirement since almost all surgeries are not done until a child reaches the age of consent.

84. While epidemiological data on the outcomes of medically delayed puberty is quite limited, referrals for sex-reassignment hormones and surgical procedures appear to be on the rise, and there is a push among many advocates to proceed with sex reassignment at younger ages. According to a 2013 article in *The Times* of London, the United Kingdom saw a 50% increase in the number of children referred to gender dysphoria clinics from 2011 to 2012, and a nearly 50% increase in referrals among adults from 2010 to 2012.<sup>28</sup> Whether this increase can be attributed to rising rates of gender confusion, rising sensitivity to gender issues, growing acceptance of therapy as an option, or

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<sup>26</sup> See, for example, American Psychological Association, “Guidelines for Psychological Practice with Transgender and Gender Nonconforming People,” *American Psychologist* 70 no. 9, (2015): 832–864, <http://dx.doi.org/10.1037/a0039906>; and Marco A. Hidalgo *et al.*, “The Gender Affirmative Model: What We Know and What We Aim to Learn,” *Human Development* 56 (2013): 285–290, <http://dx.doi.org/10.1159/000355235>.

<sup>27</sup> Sara Reardon, “Largest ever study of transgender teenagers set to kick off,” *Nature* 531, no. 7596 (2016): 560, <http://dx.doi.org/10.1038/531560a>.

<sup>28</sup> Chris Smyth, “Better help urged for children with signs of gender dysphoria,” *The Times* (London), October 25, 2013, <http://www.thetimes.co.uk/tto/health/news/article3903783.ece>. According to the article, in 2012 “1,296 adults were referred to specialist gender dysphoria clinics, up from 879 in 2010. There are now [in 2013] 18,000 people in treatment, compared with 4,000 15 years ago. [In 2012] 208 children were referred, up from 139 the year before and 64 in 2008.”

other factors, the increase itself is concerning, and merits further scientific inquiry into the family dynamics and other potential problems, such as social rejection or developmental issues, that may be taken as signs of childhood gender dysphoria.

85. A study of psychological outcomes following puberty suppression and sex-reassignment surgery, published in the journal *Pediatrics* in 2014 by child and adolescent psychiatrist Annelou L.C. de Vries and colleagues, suggested improved outcomes for individuals after receiving these interventions, with well-being improving to a level similar to that of young adults from the general population.<sup>29</sup> This study looked at 55 transgender adolescents and young adults (22 MtF and 33 FtM) from a Dutch clinic who were assessed three times: before the start of puberty suppression (mean age: 13.6 years), when cross-sex hormones were introduced (mean age: 16.7 years), and at least one year after sex-reassignment surgery (mean age: 20.7 years). The study did not provide a matched group for comparison—that is, a group of transgender adolescents who did not receive puberty-blocking hormones, cross-sex hormones, and/or sex-reassignment surgery—which makes comparisons of outcomes more difficult.

86. In the study cohort, gender dysphoria improved over time, body image improved on some measures, and overall functioning improved modestly. Due to the lack of a matched control group it is unclear whether these changes are attributable to the procedures or would have occurred in this cohort without the medical and surgical interventions. Measures of anxiety, depression, and anger showed some improvements over time, but these findings did not reach statistical significance. While this study suggested some improvements over time in this cohort, particularly the reported subjective satisfaction with the procedures, detecting significant differences would require the study to be replicated with a matched control group and a larger sample size. The interventions also included care from a multidisciplinary team of medical professionals, which could have had a beneficial effect. Future studies of this kind would ideally include long-term follow-ups that assess outcomes

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<sup>29</sup> Annelou L.C. de Vries *et al.*, “Young Adult Psychological Outcome After Puberty Suppression and Gender Reassignment,” *Pediatrics* 134, no. 4 (2014): 696–704, <http://dx.doi.org/10.1542/peds.2013-2958d>.

and functioning beyond the late teens or early twenties.

#### **Treatment of Gender Dysphoria in Adults: Sex Reassignment Surgery**

87. As for therapeutic intervention in adults: The high level of uncertainty regarding various outcomes after sex-reassignment surgery makes it difficult to find clear answers about the effects on patients of reassignment surgery. The potential that patients undergoing medical and surgical sex reassignment may want to return to a gender identity consistent with their biological sex suggests that reassignment carries considerable psychological and physical risk, especially when performed in childhood, but also in adulthood. It suggests that the patients' pre-treatment beliefs about an ideal post-treatment life may sometimes go unrealized.

88. In 2004, Birmingham University's Aggressive Research Intelligence Facility (Arif) published an assessment of the findings of more than one hundred follow-up studies of post-operative transsexuals.<sup>30</sup> An article in *The Guardian* summarized the findings:

Arif...concludes that none of the studies provides conclusive evidence that gender reassignment is beneficial for patients. It found that most research was poorly designed, which skewed the results in favour of physically changing sex. There was no evaluation of whether other treatments, such as long-term counselling, might help transsexuals, or whether their gender confusion might lessen over time. Arif says the findings of the few studies that have tracked significant numbers of patients over several years were flawed because the researchers lost track of at least half of the participants. The potential complications of hormones and genital surgery, which include deep vein thrombosis and incontinence respectively, have not been thoroughly investigated, either. "There is huge uncertainty over whether changing someone's sex is a good or a bad thing," says Dr. Chris Hyde, director of Arif. "While no doubt great care is taken to ensure that appropriate patients undergo gender reassignment, there's still a large number of people who have the surgery but remain traumatized—often to the point of committing suicide."

89. The high level of uncertainty regarding various outcomes after sex-reassignment

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<sup>30</sup> David Batty, "Mistaken identity," *The Guardian*, July 30, 2004,  
<http://www.theguardian.com/society/2004/jul/31/health.socialcare>.

surgery makes it difficult to find clear answers about the effects on patients of reassignment surgery. Since 2004, there have been other studies on the efficacy of sex-reassignment surgery, using larger sample sizes and better methodologies. Some of the more informative and reliable studies on outcomes for individuals receiving sex-reassignment surgery are examined below.

90. As far back as 1979, Jon K. Meyer and Donna J. Reter published a longitudinal, follow-up study on the overall well-being of adults who underwent sex-reassignment surgery.<sup>31</sup> The study compared the outcomes of 15 people who received surgery with those of 35 people who requested but did not receive surgery (14 of these individuals eventually received surgery later, resulting in three cohorts of comparison: operated, not-operated, and operated later). Well-being was quantified using a scoring system that assessed psychiatric, economic, legal, and relationship outcome variables. Scores were determined by the researchers after performing interviews with the subjects. Average follow-up time was approximately five years for subjects who had sex change surgery, and about two years for those subjects who did not.

91. Compared to their condition before surgery, the individuals who had undergone surgery appeared to show some improvement in well-being, though the results had a fairly low level of statistical significance. Individuals who had no surgical intervention did display a statistically significant improvement at follow-up. However, there was no statistically significant difference between the two groups' scores of well-being at follow-up. The authors concluded that "sex reassignment surgery confers no objective advantage in terms of social rehabilitation, although it remains subjectively satisfying to those who have rigorously

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<sup>31</sup> Jon K. Meyer and Donna J. Reter, "Sex Reassignment: Follow-up," *Archives of General Psychiatry* 36, no. 9 (1979): 1010–1015, <http://dx.doi.org/10.1001/archpsyc.1979.01780090096010>.

pursued a trial period and who have undergone it.”<sup>32</sup> This study led the psychiatry department at Johns Hopkins Medical Center (JHMC) to discontinue surgical interventions for sex changes for adults.<sup>33</sup>

92. However, the study has important limitations. Selection bias was introduced in the study population, because the subjects were drawn from those individuals who sought sex-reassignment surgery at JHMC. In addition, the sample size was small. Also, the individuals who did not undergo sex-reassignment surgery but presented to JHMC for it did not represent a true control group. Random assignment of the surgical procedure was not possible. Large differences in the average follow-up time between those who underwent surgery and those who did not further reduces any capacity to draw valid comparisons between the two groups. Additionally, the study’s methodology was also criticized for the somewhat arbitrary and idiosyncratic way it measured the well-being of its subjects. Co-habitation or any form of contact with psychiatric services were scored as equally negative factors as having been arrested.<sup>34</sup>

93. In 2011, Cecilia Dhejne and colleagues from the Karolinska Institute and Gothenburg University in Sweden published one of the more robust and well-designed studies to examine outcomes for persons who underwent sex-reassignment surgery. Focusing on mortality, morbidity, and criminality rates, the matched cohort study compared a total of 324 transsexual persons (191 MtFs, 133 FtMs) who underwent sex reassignment between 1973 and 2003 to two age-matched controls: people of the same sex as the transsexual person at

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<sup>32</sup> *Ibid.*, 1015.

<sup>33</sup> See, for instance, Paul R. McHugh, “Surgical Sex,” *First Things* (November 2004), <http://www.firstthings.com/article/2004/11/surgical-sex>.

<sup>34</sup> Michael Fleming, Carol Steinman, and Gene Bocknek, “Methodological Problems in Assessing Sex-Reassignment Surgery: A Reply to Meyer and Reter,” *Archives of Sexual Behavior* 9, no. 5 (1980): 451–456, <http://dx.doi.org/10.1007/BF02115944>.

birth, and people of the sex to which the individual had been reassigned.<sup>35</sup>

94. Given the relatively low number of transsexual persons in the general population, the size of this study is impressive. Unlike Meyer and Reter, Dhejne and colleagues did not seek to evaluate the patient satisfaction after sex-reassignment surgery, which would have required a control group of transgender persons who desired to have sex-reassignment surgery but did not receive it. Also, the study did not compare outcome variables before and after sex-reassignment surgery; only outcomes after surgery were evaluated. We need to keep these caveats in mind as we look at what this study found. These two caveats need to be kept in mind.

95. Dhejne and colleagues found statistically significant differences between the two cohorts on several of the studied rates. For example, the postoperative transsexual individuals had an approximately three times higher risk for psychiatric hospitalization than the control groups, even after adjusting for prior psychiatric treatment.<sup>36</sup> (However, the risk of being hospitalized for substance abuse was not significantly higher after adjusting for prior psychiatric treatment, as well as other covariates.) Sex-reassigned individuals had nearly a three times higher risk of all-cause mortality after adjusting for covariates,<sup>37</sup> although the elevated risk was significant only for the time period of 1973–1988. Those undergoing surgery during this period were also at increased risk of being convicted of a crime.<sup>38</sup> Most alarmingly, sex-reassigned individuals were 4.9 times more likely to attempt

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<sup>35</sup> Cecilia Dhejne *et al.*, “Long-term follow-up of transsexual persons undergoing sex reassignment surgery: cohort study in Sweden,” *PLOS ONE* 6, no. 2 (2011): e16885, <http://dx.doi.org/10.1371/journal.pone.0016885>.

<sup>36</sup> 95% confidence interval: 2.0–3.9.

<sup>37</sup> 95% confidence interval: 1.8–4.3.

<sup>38</sup> MtF transsexuals in the study’s 1973–1988 period showed a higher risk of crime compared to the female controls, suggesting that they maintain a male pattern for criminality. That study period’s FtM transsexuals, however, did

suicide and 19.1 times more likely to die by suicide compared to controls.<sup>39</sup> “Mortality from suicide was strikingly high among sex-reassigned persons, including after adjustment for prior psychiatric morbidity.”<sup>40</sup>

96. The study design precludes drawing inferences “as to the effectiveness of sex reassignment as a treatment for transsexualism,” although Dhejne and colleagues state that it is possible that “things might have been even worse without sex reassignment.”<sup>41</sup> Overall, post-surgical mental health was quite poor, as indicated especially by the high rate of suicide attempts and all-cause mortality in the 1973–1988 group. (It is worth noting that for the transsexuals in the study who underwent sex reassignment from 1989 to 2003, there were of course fewer years of data available at the time the study was conducted than for those transsexuals from the earlier period. The rates of mortality, morbidity, and criminality in the later group may in time come to resemble the elevated risks of the earlier group.) In summary, this study suggests that sex-reassignment surgery may not rectify the comparatively poor health outcomes associated with transgender populations in general. Still, because of the limitations of this study mentioned above, the results also cannot establish that sex-reassignment surgery causes poor health outcomes.

97. In 2009, Annette Kuhn and colleagues from the University Hospital and University of Bern in Switzerland examined post-surgery quality of life in 52 MtF and 3 FtM

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show a higher risk of crime compared to the female controls, perhaps related to the effects of exogenous testosterone administration.

<sup>39</sup> 95% confidence intervals: 2.9–8.5 and 5.8–62.9, respectively.

<sup>40</sup> *Ibid.*, 6.

<sup>41</sup> *Ibid.*, 7.

transsexuals fifteen years after sex-reassignment surgery.<sup>42</sup> This study found considerably lower general life satisfaction in post-surgical transsexuals as compared with females who had at least one pelvic surgery in the past. The postoperative transsexuals reported lower satisfaction with their general quality of health and with some of the personal, physical, and social limitations they experienced with incontinence that resulted as a side effect of the surgery. Again, inferences cannot be drawn from this study regarding the efficacy of sex-reassignment surgery due to the lack of a control group of transgender individuals who did not receive sex-reassignment surgery.

98. In 2010, Mohammad Hassan Murad and colleagues from the Mayo Clinic published a systematic review of studies on the outcomes of hormonal therapies used in sex-reassignment procedures, finding that there was “very low quality evidence” that sex reassignment via hormonal interventions “likely improves gender dysphoria, psychological functioning and comorbidities, sexual function and overall quality of life.”<sup>43</sup> The authors identified 28 studies that together examined 1,833 patients who underwent sex-reassignment procedures that included hormonal interventions (1,093 male-to-female, 801 female-to-male).<sup>44</sup> Pooling data across studies showed that, after receiving sex-reassignment procedures, 80% of patients reported improvement in gender dysphoria, 78% reported improvement in psychological symptoms, and 80% reported improvement in quality of life.<sup>45</sup> None of the studies included the bias-limiting measure of randomization (that is, in

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<sup>42</sup> Annette Kuhn *et al.*, “Quality of life 15 years after sex reassignment surgery for transsexualism,” *Fertility and Sterility* 92, no. 5 (2009): 1685–1689, <http://dx.doi.org/10.1016/j.fertnstert.2008.08.126>.

<sup>43</sup> Mohammad Hassan Murad *et al.*, “Hormonal therapy and sex reassignment: a systematic review and meta-analysis of quality of life and psychosocial outcomes,” *Clinical Endocrinology*, 72 (2010): 214–231. <http://dx.doi.org/10.1111/j.1365-2265.2009.03625.x>.

<sup>44</sup> *Ibid.*, 215

<sup>45</sup> 95% confidence intervals: 68–89%, 56–94%, and 72–88%, respectively.

none of the studies were sex-reassignment procedures assigned randomly to some patients but not to others), and only three of the studies included control groups (that is, patients who were not provided the treatment to serve as comparison cases for those who did).<sup>46</sup> Most of the studies examined in Murad and colleagues' review reported improvements in psychiatric comorbidities and quality of life, though notably suicide rates remained higher for individuals who had received hormone treatments than for the general population, despite reductions in suicide rates following the treatments.<sup>47</sup> The authors also found that there were some exceptions to reports of improvements in mental health and satisfaction with sex-reassignment procedures; in one study, 3 of 17 individuals regretted the procedure with 2 of these 3 seeking reversal procedures,<sup>48</sup> and four of the studies reviewed reported worsening quality of life, including continuing social isolation, lack of improvement in social relationships, and dependence on government welfare programs.<sup>49</sup>

99. The scientific evidence suggests we take a skeptical view toward the claim that sex-reassignment procedures provide the hoped-for benefits or resolve the underlying issues that contribute to elevated mental health risks among the transgender population. While we work to stop maltreatment and misunderstanding, we should also work to study and understand whatever factors may contribute to the high rates of suicide and other psychological and behavioral health problems among the transgender population, and to think more clearly about the treatment options that are available. Critiquing and challenging the notion that there is a fixed gender independent of biological sex enables us to ask important questions

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<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*, 216

<sup>48</sup> *Ibid.*

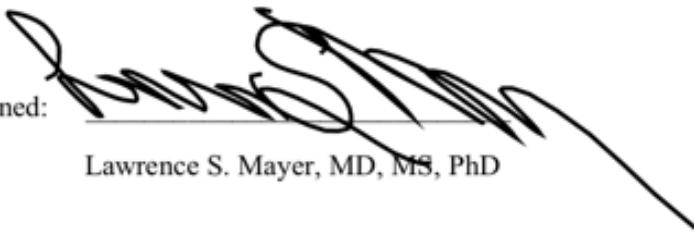
<sup>49</sup> *Ibid.*, 228

about sexuality, sexual behaviors, gender, and individual and social goods in a different light. Thoughtful scientific research and careful, circumspect interpretation of its results can advance our understanding of sexual gender identity. There is still much work to be done and many unanswered questions.

100. I reserve the right to expand on this declaration if given additional evidence or given additional testimony of other witnesses to review

101. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Signed:



Lawrence S. Mayer, MD, MS, PhD

Date: August 12, 2016

## References

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<sup>i</sup> For one recent review of the science of neurological sex differences, see Amber N.V. Ruigrok *et al.*, “A meta-analysis of sex differences in human brain structure,” *Neuroscience Biobehavioral Review* 39 (2014): 34–50, <http://dx.doi.org/10.1016%2Fj.neubiorev.2013.12.004>.

<sup>iii</sup> Robert Sapolsky, “Caught Between Male and Female,” *Wall Street Journal*, December 6, 2013, <http://www.wsj.com/articles/SB10001424052702304854804579234030532617704>.

<sup>iv</sup> *Ibid.*

<sup>v</sup> *Ibid.*

<sup>vi</sup> For some examples of popular interest in this view, see Francine Russo, “Transgender Kids,” *Scientific American Mind* 27, no. 1 (2016): 26–35, <http://dx.doi.org/10.1038/scientificamericanmind0116-26>; Jessica Hamzelou, “Transsexual differences caught on brain scan,” *New Scientist* 209, no. 2796 (2011): 1, <https://www.newscientist.com/article/dn20032-transsexual-differences-caught-on-brain-scan/>; Brynn Tannehill, “Do Your Homework, Dr. Ablow,” The Huffington Post, January 17, 2014, [http://www.huffingtonpost.com/brynn-tannehill/how-much-evidence-does-it\\_b\\_4616722.html](http://www.huffingtonpost.com/brynn-tannehill/how-much-evidence-does-it_b_4616722.html).

<sup>vii</sup> Nancy Segal, “Two Monozygotic Twin Pairs Discordant for Female-to-Male Transsexualism,” *Archives of Sexual Behavior* 35, no. 3 (2006): 347–358, <http://dx.doi.org/10.1007/s10508-006-9037-3>.

<sup>viii</sup> Holly Devor, “Transsexualism, Dissociation, and Child Abuse: An Initial Discussion Based on Nonclinical Data,” *Journal of Psychology and Human Sexuality*, 6 no. 3 (1994): 49–72, [http://dx.doi.org/10.1300/J056v06n03\\_04](http://dx.doi.org/10.1300/J056v06n03_04).

<sup>ix</sup> Segal, “Two Monozygotic Twin Pairs Discordant for Female-to-Male Transsexualism,” 350.

<sup>x</sup> *Ibid.*, 351.

<sup>xi</sup> *Ibid.*, 353–354.

<sup>xii</sup> *Ibid.*, 354.

<sup>xiii</sup> *Ibid.*, 356.

<sup>xiv</sup> *Ibid.*, 355. Emphasis in original.

<sup>xv</sup> J. Michael Bostwick and Kari A. Martin, “A Man’s Brain in an Ambiguous Body: A Case of Mistaken Gender Identity,” *American Journal of Psychiatry*, 164 no. 10 (2007): 1499–1505, <http://dx.doi.org/10.1176/appi.ajp.2007.07040587>.

<sup>xvi</sup> *Ibid.*, 1500.

<sup>xvii</sup> *Ibid.*, 1504.

<sup>xviii</sup> *Ibid.*, 1504.

<sup>xix</sup> *Ibid.*, 1503–1504.

<sup>xx</sup> Giuseppina Rametti *et al.*, “White matter microstructure in female to male transsexuals before cross-sex hormonal treatment. A diffusion tensor imaging study,” *Journal of Psychiatric Research* 45, no. 2 (2011): 199–204, <http://dx.doi.org/10.1016/j.jpsychires.2010.05.006>.

<sup>xxi</sup> *Ibid.*, 202.

<sup>xxii</sup> Giuseppina Rametti *et al.*, “The microstructure of white matter in male to female transsexuals before cross-sex hormonal treatment. A DTI study,” *Journal of Psychiatric Research* 45, no. 7 (2011): 949–954, <http://dx.doi.org/10.1016/j.jpsychires.2010.11.007>.

<sup>xxiii</sup> *Ibid.*, 952.

<sup>xxiv</sup> *Ibid.*, 951.

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<sup>xxv</sup> Emiliano Santarecchi *et al.*, “Intrinsic Cerebral Connectivity Analysis in an Untreated Female-to-Male Transsexual Subject: A First Attempt Using Resting-State fMRI,” *Neuroendocrinology* 96, no. 3 (2012): 188–193, <http://dx.doi.org/10.1159/000342001>.

<sup>xxvi</sup> *Ibid.*, 188.

<sup>xxvii</sup> Hsiao-Lun Ku *et al.*, “Brain Signature Characterizing the Body-Brain-Mind Axis of Transsexuals,” *PLOS ONE* 8, no. 7 (2013): e70808, <http://dx.doi.org/10.1371/journal.pone.0070808>.

<sup>xxviii</sup> *Ibid.*, 2.

<sup>xxix</sup> Hans Berglund *et al.*, “Male-to-Female Transsexuals Show Sex-Atypical Hypothalamus Activation When Smelling Odorous Steroids,” *Cerebral Cortex* 18, no. 8 (2008): 1900–1908, <http://dx.doi.org/10.1093/cercor/bhm216>.

<sup>xxx</sup> An additional clarification may be helpful with regard to research studies of this kind. Significant differences in the means of sample populations do not entail predictive power of any consequence. Suppose that we made 100 different types of brain measurements in cohorts of transgender and non-transgender individuals, and then calculated the means of each of those 100 variables for both cohorts. Statistical theory tells us that, due to mere chance, we can (on average) expect the two cohorts to differ significantly in the means of 5 of those 100 variables. This implies that if the significant differences are about 5 or fewer out of 100, these differences could easily be by chance and therefore we should not ignore the fact that 95 other measurements failed to find significant differences.

<sup>xxxi</sup> One recent paper estimates that 0.6% of the adult U.S. population is transgender. See Andrew R. Flores *et al.*, “How Many Adults Identify as Transgender in the United States?” (white paper), Williams Institute, UCLA School of Law, June 30, 2016, <http://williamsinstitute.law.ucla.edu/wp-content/uploads/How-Many-Adults-Identify-as-Transgender-in-the-United-States.pdf>.

**LAWRENCE S. MAYER, MD, MS, PhD**  
Professional Vita

May 2015

Primary interests: The biostatistical foundations, applications and calculations of epidemiological models. Development, application and evaluation of biostatistical and epidemiological methods used in analysis of longitudinal health data obtained in support of decision making in a clinical or policy environment particularly in the subspecialties of internal medicine, toxicology, surgery, Ob/Gyn and psychiatry. Assessment of clinical trials and epidemiological studies used to support product development, licensing and monitoring in the pharmaceutical and device industry. Assessment of product safety and personal injury from prescription drugs and medical devices. Assessment of process used to evaluate and monitor research studies being done in an academic medical environment. Assessment of risks, adverse effects, and intervention effects related to environmental and occupational exposures on patients, workers and the general public. Focus on problems in which clinical course is critical, data is limited, uncertainty is complex, potential risk is large, models are primitive yet complex, and the biological mechanisms of the disease, exposures and interventions are poorly understood. Development of statistical methodology for assessing health effects of preventive interventions and environmental exposures. Analysis of statistical and epidemiological issues arising from applying evidence-based medicine in a clinical environment. Analysis of the statistical issues arising from applying epidemiological models in the diagnosis, treatment, and prognosis of disease.

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**Current Positions:**

Professor of Biostatistics and Biomedical Informatics, Arizona State University, 1995-

Professor of Psychiatry and Public Health (Adjunct), School of Medicine and Bloomberg School of Public Health, Johns Hopkins University

Professor of Epidemiology, College of Public Health, University of Arizona, 2000-

Research Faculty Appointment, Mayo Clinic, 2014-

Consultant in Psychiatric Epidemiology, Banner Alzheimer's Institute, Phoenix, 2003 -

Chief, Epidemiology and Biostatistics Section, Integrated Fellowship in Cardiology, Phoenix, 1998-

Faculty Member, Medical Education, Banner Good Samaritan Medical Center, Phoenix, 1993-

Detective (Fully Sworn), District (County) Attorney's Office, Maricopa County, Arizona 1998-

**Education:**

Undergraduate: Arizona State University (1963-64) and Ohio State University: Psychology (Pre-med), BS, 1967, Phi Beta Kappa, magna cum laude, Distinction in Psychology

Professional: Ohio State University College of Medicine (pre-clinical), dual enrollment, 1966-68; British Health Service (Guy's Hospital Medical School and London Institute of Psychiatry), 1969; MB (MD) and qualified to practice medicine, 1969; Junior House Officer, Associated Medical Schools, British Virgin Islands 1970, MD and qualified to practice as a Public Health Physician (psychiatric epidemiologist), British Health Service, 1970

Graduate: Ohio State University, Mathematics, MS, 1969; Statistics and Biostatistics; PhD, 1971

Honorary: MA, Arts and Letters, University of Pennsylvania, 1981

**Previous Positions:**

Visiting Professor, Division of Neuropsychiatry, Department of Psychiatry, Johns Hopkins Medicine, 2003-2004

Visiting Professor, Department of Biostatistics, Johns Hopkins School of Public Health, 1996-97, 1989-1990

Director, Wharton Analysis Center, Wharton School; Associate Professor of Statistics, Public and Urban Policy, and Epidemiology, University of Pennsylvania, 1979-83

Visiting Professor, Department of Statistics, Stanford University, 1982-83

Research Statistician and Lecturer with Rank of Associate Professor, Department of Statistics; Member, Center for Energy and Environmental Studies; Associate Master, Princeton Inn College; Instructor, Woodrow Wilson School of Public Affairs; Princeton University, 1974-79

Assistant Professor of Statistics (with secondary appointments in Political Science, Sociology, and Education) Virginia Polytechnic Institute and State University, 1971-1974

**Other Major Appointments:**

Clinical Professor, College of Medicine, University of Arizona, 1997-2006

Chair, Division of Research, Medical Professionals of Arizona, Phoenix, 2003-2006

Director of Research, Maricopa Integrated Health System, 2003-2006

System Director, Research and Director of the Banner Health Research Institute, Banner Health System, Phoenix, 2001-2003

Director Good Samaritan Research Institute, 2001-2003

Consultant in Biostatistics, Good Samaritan Medical Center, 1993-2001

Thesis Advisor, Masters in Public Health, School of Public Health, University of Arizona, 1996-

Member, Committee on Statistics, Graduate College, Arizona State University, 1989-2004

Member, Program on Law and the Social Sciences, Arizona State University, 1983-2004

Member, Committee on Malpractice Reform, Arizona Supreme Court, 1989-1993

Erskine Fellow, Occupational Medicine, University of Canterbury, Christchurch, New Zealand, 1989-90

Visiting Scholar, Department of Statistics, Stanford University, Summer Semesters, 1984-1988

Instructor, Summer Program, Inter-University Consortium for Political and Social Research, Institute for Social Research, University of Michigan, 1971-1980

Game and Fish Officer (Fully Sworn), State of Arizona, 1983-1998

**Journal Articles:**

Samus QM, Onyike CU, Johnston D, Mayer L, McNabney M, Baker AS, Brandt J, Rabins PV, Lyketsos CG, Rosenblatt A. 12-month incidence, prevalence, persistence, and treatment of mental disorders among individuals recently admitted to assisted living facilities in Maryland. *Int Psychogeriatr.* 2013 May;25(5):721-31

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Mayer, L.S. (1978). "Estimating the Effects of the Onset of the Energy Crisis on Residential Energy Demand," Resource and Energy, 1, 57-92

Mayer, L.S. and Benjamin, Y. (1978). "Modeling Residential Demand for Natural Gas as a Function of the Coldness of the Month," Energy and Buildings, 1, 301-312

Mayer, L.S., Hoyer, R.W., and Bernd, J.L. (1977). "Some Problems in the Validation of Mathematical and Stochastic Models of Political Phenomena: The Case of the Supreme Court," American Journal of Political Science, 21, 381-403

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Jensen, D.R. and Mayer, L.S. (1977). "Some Variational Results and Their Applications to Problems in Multiple Inference," Annals of Statistics, 5, 922-931

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Mayer, L.S., and Good, I.J. (1975). "Is Minimax Regret Applicable to Voting Decisions? American Political Science Review, 69, 916-917

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Jensen, D.R., Mayer, L.S. and Myers, R.H. (1975). "Optimal Designs and Large-Sample Tests for Linear Hypotheses," Biometrika, 62, 71-78

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Bush, W. and Mayer, L.S. (1974). "Some Implications of Anarchy for the Distribution of Property," Journal of Economic Theory, 4, 401-411

Mayer, L.S., Singh, J. and Willke, T.A. (1974). "Utilizing Initial Estimates in Estimating the Coefficients in a Linear Model," Journal of the American Statistical Association, 69, 219-222

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Mayer, L.S. and Hendrickson, A. (1973). "A Method for Constructing an Optimal Regression Design After an Initial Set of Input Values Has Been Selected," Communications in Statistics, 2(5), 465-477

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### **Research Monographs:**

Energy Consumption Measurement: Data Needs for Public Policy, (1977) Committee on Measurement of Energy Consumption, Washington: National Academy of Science

Mayer, L.S. (1976). An Analysis of Alternative Voter Registration Systems, Modules in Applied Mathematics, Washington: Mathematical Association of America

### **Chapters in Research Monographs:**

Mayer, L. S. (1994) "On Cross-Lagged Panel Studies with Serially Correlated Errors," Frontiers in Econometrics, G. Maddala (ed), 154-165

Mayer, L.S. (1980). "The Effects of Price on Energy Demand: Econometrics Versus Exploratory Data Analysis," in Evaluation of Econometric Models (J. Kmenta and J. Ramsey, eds.), Academic Press, 15-45

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### **Published Book Reviews**

On the Verge: The Legal Fight of Travellers in England for their Rights (many authors), Romani Studies, 2001, 144-146

Firms and Markets (C. Tucker and R. Fuller, eds.), Perspective, Winter, 1988, 41

Social Science and Social Policy (R. Shotland and M. Mark, eds.), Perspective, April, 1986, 60

Principles of Epidemiology (Kleinbaum, Kupper and Morgenstern) Journal of the American Statistical Association, July/August 1984, 108

U.S. Interests and Global Natural Resources (Castle and Price, eds.), Perspective, September, 1984, 725-726

Proximity and Preference: Problems in the Multidimensional Analysis of Large Data Sets (R. Golledge and J. Raynor, eds.), Journal of the American Statistical Association, September, 1983, 78, 734

Statistical Applications in the Spatial Sciences (N. Wrigley, ed.), Journal of the American Statistical Association, June, 1983, 78, 509-510

Power, Voting, and Voting Power (Manfred J. Holler, ed.), Perspective, February, 1983

Exploratory Data Analysis (J. Tukey), Evaluation and Program Planning, 1981, 4, 195-196

On the Social Use of Information (A. Wissel), Perspective, June, 1977, Vol. 6, No. 5

Simulation Model Building: A Statistical Approach to Modeling in the Social Sciences With The Simulation Method (U. Norlen), Perspective, March 1977, Vol. 6, No. 2

Research Methods in the Social Sciences (D. Nachimas and C. Nachimas), Perspective, November 1976, Vol. 5, No. 9

Registering Voters by Mail: The Maryland and New Jersey Experience (R. Smolka), Perspective, October 1975, Vol. 4, No. 8

### **Other Professional Activities:**

Guest Lecture, Statistics and Epidemiology in Court, University of Maryland Law School, March, 2012

Editorial Board Member, Journal of Cardiology Research, 2003-

Member, Development Board, Copper Ridge Institute, Sykesville, MD, 1998-2000

Member, Expert Panel, Sexually Transmitted Disease and Teens, W. T. Grant Foundation, 2000-2001

Advisor, Sexually Transmitted Diseases & the Internet, American Social Health Association, 2000-2001

Invited Member, Panel on Mental Health Problems of Asylum Seekers, University of Greenwich, July 2000

Invited participant, Expert Panel on Mortality Associated with Alternative Fuels, Department of Energy, Carmel, May, 2000

Chief, Epidemiology and Biostatistics Branch, Phoenix Integrated Residency in Cardiology, 1999-

Clinical Professor, Prevention Center, College of Medicine, University of Arizona, 1999-

Member, Faculty of the Psychiatry Residency Program, Good Samaritan, 1998 –

Member of the Board of Directors, Palms Clinic, Phoenix, 1998-

Invited Participant, US Environmental Protection Agency Expert Panel on Cryptosporidium, October, 1998

Member, Evaluation Panel, Graduate Programs, University of Greenwich, London, August, 1998

Expert Witness, Appropriations Hearing on NIH Budget, US Senate, October, 1997-

Member, Expert Review Committee on Grant Applications and Awards, Health Care and Promotion Fund, Hong Kong, 1996-1998

Member, Clinical Committee, Health Services Advisory Group, Arizona, [the arm of the Medicare system that advises Medicare on reimbursements], 1994-1996

Alternate Member, Institutional Review Board, Samaritan Health Systems 1994-2001

Invited Attendee, Workshop on Psychosocial Research, American Psychiatric Association, Massachusetts General Hospital, Boston, October, 1996

Invited Attendee, Risk Estimation Conference, Environmental Protection Agency, Durham, North Carolina, September, 1996

Invited Attendee, Society for Prevention Research, Annual Conference, Puerto Rico, May, 1996

Proposal Evaluation Site Visit, Raptor Research Center, Boise State University, March 1996

Workshop Attendee, The Epidemiology of Avian Mortality, California Energy Commission, Sacramento, California, January, 1996

Invited Attendee, Prevention Science and Methodology Conference, Baltimore, MD, October, 1995

Invited Attendee, Avian Windpower Planning Meeting, Palm Springs, September, 1995

Invited Attendee, US Department of Energy Course on Risk Assessment, Boulder, July 1995

Invited Attendee, Mini-conference on Measuring Health Outcomes, Phoenix, March 1995

Invited Attendee, Private Conference on Wind Energy Research, California Energy Commission,  
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Grand Island, California, December, 1994

Invited Participant, Workshop on Prevention Methodology, University of South Florida, Baltimore, December, 1994

Invited Participant, National Conference on Prevention Research, Washington, DC, December, 1994

Invited Consultant, California Energy Commission, Flagstaff, Arizona, November, 1994

Invited Participant, Workshop on the Science of Prevention, NIMH, Baltimore, December, 1994

Invited Participant, Meeting on Renewable Energy, California Energy Commission, Flagstaff, Arizona, November, 1994

Invited Participant, Workshop on Prevention Methodology, Oregon Social Learning Center, Eugene Oregon, August, 1994

Invited Technical Advisor, National Planning Meeting on Wind Power and Avian Mortality, Lakewood, CO, July, 1994

Invited Participant, Workshop on Biostatistical Methods in Preventive Mental Health Research, College of Public Health, University of South Florida, Tampa, March, 1994

Invited Participant, Biomedical Effects of Renewable Energy, Invited Conference, US Department of Energy, Washington, DC February, 1994

Member, Special Study Section, National Institute of Health, 1993-

Invited Participant, Avian Mortality Taskforce Meeting, October, Pleasanton, CA, December, 1993

Invited Participant, Conference on Avian Mortality and Wind Energy, Pacific Gas and Electric, Livermore, CA, October, 1993

Invited Participant, Prevention Center Directors Meeting, National Institute of Mental Health, Tysons Corner, September, 1993

Invited Participant, National Conference on Prevention Research, McLean, Virginia, April, 1993.

Invited Participant, Prevention Center Directors Meeting, National Institute of Mental Health, Rockville, September, 1992

Invited Participant, Prevention Center Directors Meeting, National Institute of Mental Health, Rockville, September, 1991

Invited Participant, Conference on the Future of Prevention Research, National Institute of Mental Health, Washington, DC, July, 1991

Invited Participant, Workshop on Development of Delinquency, National Academy of Science, Woods Hole Study Center, July, 1991

Invited Participant, Workshop on Preventive Research, National Institute of Mental Health, October, 1990

Invited Lecturer, Exploratory Data Analysis, The Bootstrap and Panel Models in Occupational Medicine, lecture series, College of Business Administration, University of Canterbury, Christchurch, New Zealand, September - October, 1989

Invited Host, Mini-conference on The Epidemiology of Bladder Cancer, August, 1988, Lenox, Massachusetts

Expert Witness, Department of Public Health, Commonwealth of Massachusetts, July, 1988

Expert Witness, Department of Labor and Industry, Commonwealth of Massachusetts, July, 1988

Invited Participant, Workshop in Multidimensional Analysis, Information Theory and Asymptotic Methods, Stanford University, July 1983

Assisted in Preparation and Coordination, Conference on Science and Technology in the Soviet Union, Stanford University, July, 1983

Session Organizer, International Conference on Energy Use Management, Berlin, October, 1981

Member, Committee on Industrial Use of Solar Energy, Solar Energy Research Institute, Golden, Colorado, 1979-1981

Press Conference on Wharton's Support to Litigation Project Award, April, 1981, Philadelphia

Invited Participant, Workshop on Model Validation, Department of Economics, New York University, April, 1980.

Expert Witness, Hearings on Energy Tax Exemptions, Energy Committee, Pennsylvania State Assembly, April, 1980

Lecturer, Workshop in Environmental Policy, Florida Atlantic University, March, 1980

Interviewed on Feasibility of Philadelphia's Refinery Tax Proposal, WUSL Radio, Philadelphia, November, 1980

Member, Committee on Health Manpower Training, Department of Health, New Jersey, 1976-79.

Interviewed on Model Validation, WPEN Radio, Philadelphia, November, 1979.

Interviewed on Value of Energy Forecasts, Philadelphia Inquirer, October, 1979.

Invited Panelist, Panel on Energy Models in Energy Policy-making, Program in Science Technology and Public Policy, George Washington University, Washington, D.C., October, 1979

Organizer, Workshop on Resource Estimation, Department of Energy Statistical Symposium, Gatlinburg, Tennessee, October, 1979

Session Chairperson, Special Topics Meetings on Regression, Institute of Mathematical Statistics, October, 1979

Invited Participant, Workshop on the Measurement and Interpretation of Model Confidence, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C., October, 1979

Invited Participant, Workshop on Measuring Model Confidence, National Bureau of Standards, Gaithersburg, MD, October 1979

Expert Witness, Hearings on State Health Benefits, Ohio State Assembly, February, 1979

Member, Committee on Model Evaluation, General Accounting Office, United States Congress, 1977-1978.

Participant, Workshop on Assessment of Energy Models, Massachusetts Institute of Technology, October, 1978.

Organizer, Session on Multivariate Statistics, Annual Meeting, Institute of Mathematical Statistics, August, 1978

Lecturer, Program on Environmental Management, Florida Atlantic University, April, 1978

Expert Witness, Hearings on Local Energy Policies, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, May, 1978

Invited Panelist, Policy Workshop on Energy Policy, Swarthmore College, March, 1978

Chairperson, Committee on Membership, Institute of Mathematical Statistics, 1974-78

Invited Participant, Workshop on Energy Information, Stanford University, December 1977

Invited Participant, Conference on Criteria for Evaluation of Econometric Models, University of Michigan, June 1977

Expert Witness, Hearings on Health Impacts of Energy Conservation, Commerce Committee, US House Representatives, April, 1977

Conference Chair, Conference on the Analysis of Large Data Sets, Institute of Mathematical Statistics and American Statistical Association, Dallas, February 1977

Panelist, Seminars on Models and Energy Policy, Program in Public Policy, George Washington University, February, 1977

Invited Participant, Workshop on Stochastic Models of Social Structure Carnegie-Mellon University, MSSB Workshop, Pittsburgh, December, 1977

Interviewed on Energy Policy, West Virginia Public Television Network, October, 1976

Member, Committee on Measurement of Energy Consumption, National Academy of Sciences, 1975-76

Interviewed on Energy Policy, West Virginia Public Television Network, October, 1976

Participant, Workshop on Model Building, Mathematical Association of America, Cornell University, August, 1976

Organizer and Chair, Session on Voting Models, Annual Meeting of the Public Choice Society, Roanoke, VA, April, 1976

Instructor, Short Course on Advances in Data Analysis, Princeton University, April, 1976

Member, Organizing Committee, Annual Convention, Institute of Mathematical Statistics, 1975-76

Member, Site Review Committee, University of Texas, San Antonio, National Science Foundation, 1975

Participant, Workshop on Validation of Econometric Models, National Science Foundation, Vail, Colorado, June, 1975

Participant, Workshop on Decentralization Theory, National Science Foundation, Princeton University, March, 1975

Member of the Council, Polymetrics Section, International Studies Association, 1973-75

Member, Committee on Education of Gifted Children, Department of Education, Virginia, 1973-74

Member, Committee on Health Training, State Council of Higher Education, Virginia, 1973-74

Instructor, Workshop on Survey Research, University of Cologne, Cologne, West Germany, 1973

Lecturer, Institute on Model Building, National Science Foundation, Blacksburg, Virginia, August, 1973

Clinical Assistant [Clinical Rotations], Associated Medical Schools, British Virgin Islands, 1969-1970

Summer Fellow, College of Medicine, University of Michigan, Summer, 1970

**Major Consulting Appointments (Other than Public and Non-profit):**

Play an active advisory role to several CEO's, corporate medical directors, courts, boards, and non-profits on specific health issues, which are confidential, private, proprietary or privileged. I would be glad to discuss these activities in an executive session. They are not appropriate for open documentation.

**Major Consulting Appointments (Public and Non-profit):**

Consultant in Research Compliance, Maricopa Integrated Medical System, 2002-2003

Consultant, California Energy Commission, 1994-2002

Consultant, National Renewable Energy Laboratory, 1992-1996

Consultant, Department of Mental Hygiene, Johns Hopkins Medical Institutions, June-August, 1990-1993

Consultant, Program on Delinquency, Child and Maternal Health, Harvard School of Public Health, 1991.

Consultant, Committee on the Courts, Arizona Supreme Court, 1988-1989.

Consultant, Bonneville Power Authority, 1986-1988.

Consultant, Special Counsel, Department of Energy, 1979-82.

Consultant, National Governors Association, 1979-81

Consultant, Environmental Monitoring Project, Environmental Protection Agency, 1979

Consultant, Energy Office, State of New York, 1976-78

Consultant, Department of Health, City of New York, 1976-78

Consultant, Center for the Study of Emergency Health Services, University of Pennsylvania, 1977

Consultant, Chancellor, The University of Missouri, 1976

Consultant, National Commission on Water Quality, 1974-76

Consultant, Trout Unlimited, 1976

Consultant, Policy Analysis Division, Department of Housing and Urban Development, 1974

Consultant, Department of Political Science, Ohio State University, 1974

Consultant, Committee on State Employee Benefits, Assembly of the State of Ohio, 1973

Consultant, Department of Preventive Medicine, Ohio State University, 1972-73

**Editorial Service:**

Abstract Review Board, Annual Meeting, Society for General Internal Medicine, 1995

Member, Editorial Board, Sociological Methodology, Publication of the American Sociological Association, 1979-1983

Associate Editor, Series on Social Methodology, Sage Publications, 1974-81

Member, Editorial Board, Journal of Politics, 1974-81

Associate Editor, Journal of the American Statistical Association, 1977-79

Abstracter, Executive Sciences Incorporated, 1974-79

Abstracter, Mathematical Reviews, 1974-76

Proposal reviewer for a variety of public agencies. In 1991-93 reviewed proposals for NIH, NIMH, NSF, DOE, EPA and others

Manuscript reviewer for several publishers including John Wiley and Sons and Wadsworth

**Honors and Awards:**

Listed in the International Who's Who in Medicine, 1997-

Listed in Who's Who in Medicine, 1994-

Honorary Member, Phi Beta Phi, Honorary Society, inducted 1991

Distinguished Research Professor, Arizona State University, 1987-88

Fellow, Royal Statistical Society, elected November, 1984.

Listed in Who's Who in the West, 1983-

Listed in Who's Who in Medical Research, 1982-

Listed in Personalities in America, 1981-

Listed in Distinguished Educators, 1982-

Member, Phi Beta Kappa, inducted 1967

Member, Alpha Iota Delta (Decision Science Honorary Society), elected 1986

Distinguished Alumni Award, Ohio State University, 1971

Awardee, Graduate Scholarship, National Science Foundation, 1967

Recipient, President's Scholarship Award, Ohio State University, 1968

Recipient, President's Scholarship Award, Ohio State University, 1967

**Research Grants and Contracts:**

Co-Principal Investigator, Alzheimer's Disease and Anti-Inflammatory Prevention: Is Elevated Serum Cholesterol Predictive of Developing AD?, D. Larry Sparks, PI, Institute for the Study of Aging, funded, March 2001, 360,000

Biostatistical Problems in Research Methodology, Samaritan Health Services, Principal Investigator: L.S. Mayer, 1996-2003, approximate award 450,000

Statistical Problems in Developing Intermediate Outcome Models of the Role of Apolipoprotein E in Alzheimer's Disease, Office of Research, Arizona State University, 1994-95, approximate award 20,000.

Biostatistical Problems in Research Methodology, Samaritan Health Services, Principal Investigator: L.S. Mayer, 1995-96, approximate award 26,000

Co-Principal Investigator, Prevention Research Training Grant, awarded by the Prevention Branch, National Institute of Mental Health, to the Prevention Center, Department of Mental Hygiene, Johns Hopkins School of Hygiene and Public Health. Principal Investigator: S. G. Kellam, 1994-1999, approximate award 500,000

Co-Principal Investigator, Epidemiological Prevention Center for Early Risk Behavior, awarded by the Prevention Branch, National Institute of Mental Health, to the Prevention Center, Department of Mental Hygiene, Johns Hopkins School of Hygiene and Public Health. Principal Investigator: S. G. Kellam, 1990-1995, approximate award, 5,000,000

Biostatistical Problems in Research Methodology, Samaritan Health Services, Principal Investigator: L.S. Mayer, 1994-95, approximate award 26,000

Biostatistical Problems in Research Methodology, Samaritan Health Services, Principal Investigator: L.S. Mayer, 1993-94, approximate award 25,000

Wharton Support to Litigation Project, awarded by the Office of the Special Counsel, Department of Energy to the Wharton Analysis Center, Wharton School, University of Pennsylvania. Principal Investigator: L.S. Mayer, 1981-83, approximate award: 2,200,000

Wharton Energy Allocation Project, awarded by the Department of Energy to the Wharton Analysis Center, Wharton School, University of Pennsylvania, Principal Investigator: L.S. Mayer, 1981-83, approximate award: 100,000

Wharton Energy Data Analysis Project, awarded by Oak Ridge National Laboratory to the Wharton Analysis Center, Wharton School, University of Pennsylvania, Principal Investigator: L.S. Mayer, 1980-81, approximate award: 450,000

Wharton Petroleum Data Analysis Project, awarded by CEXEC, Inc. to the Wharton Analysis Center, Wharton School, University of Pennsylvania, Principal Investigator: L.S. Mayer, 1980-81, approximate award: 100,000

Wharton Model Evaluation Project, awarded by the Energy Information Administration, Department of Energy to the Wharton Analysis Center, Wharton School, University of Pennsylvania, Principal Investigator: L.S. Mayer, 1979-81, approximate award: 900,000

Wharton Energy Assessment Project, awarded by Oak Ridge National Laboratory to the Wharton Analysis Center, Wharton School, University of Pennsylvania, Principal Investigator: L.S. Mayer, 1980-81, approximate award: 100,000

Princeton Resource Estimation and Validation Project, awarded by the Energy Information Administration, Department of Energy, to the Departments of Statistics and Geology, Princeton University, Principal Investigators: K. Deffeyes, G. Watson, and L. Mayer, 1978-79, approximate award: 450,000

Analysis of Residential Energy Demand, awarded by the Office of Conservation, Department of Energy to the Center for Energy and Environmental Studies, Princeton University, Principal Investigators: R. Socolow, D. Harrje, L. Mayer and F. Sinden, 1977-78, approximate award: 300,000

Analysis of Statistical Issues Arising from Energy Studies, awarded by the National Science Foundation to the Center for Energy and Environmental Studies, Princeton University, Principal Investigator: L.S. Mayer, 1977-78, approximate award: 50,000

Analysis of Residential Energy Demand, awarded by the Energy Research and Development Administration to the Center for Energy and Environmental Studies, Princeton University, Principal Investigators: R. Socolow, D. Harrje and L. Mayer, 1976-77, approximate award: 300,000

Assessing the Value of Econometric Energy Models, awarded by the Department of Commerce to the Center for Energy and Environmental Studies, Princeton University, Principal Investigator: L.S. Mayer, 1976-77, approximate award: 25,000

Energy Husbandry in Residential Housing, awarded by the National Science Foundation to the Center for Environmental Studies, Princeton University, Principal Investigators: R. Socolow, D. Harrje and L. Mayer, 1975-76, approximate award: 300,000

On Comparing Factor Matrices, awarded by the National Institute of Mental Health to the Department of Statistics, Princeton University, Principal Investigator: L.S. Mayer, 1974 - 1975, approximate award: 15,000

Measuring the Relationship Between Abstract Variables, awarded by the National Institute of Mental Health to the Department of Statistics, Virginia Polytechnic Institute and State University, Principal Investigator: L.S. Mayer, 1972-74, approximate award: 15,000

Component Analysis of Variance, awarded by the National Institute of Mental Health to the Behavioral Sciences Laboratory, Ohio State University and the Department of Statistics, Virginia Polytechnic Institute and State University, Principal Investigator: L.S. Mayer, 1971-72, approximate award: 15,000

### **Papers Presented at Professional Meetings:**

Depression in Assisted Living is Common and Related To Physical Burden, Gerontology Society Annual Meeting, Washington DC, November 2004

"Methodological Issues In Modeling The Incidence Of Alzheimer's Disease As A Function Of Age", World Congress of Epidemiology, Toronto, June, 2001

"Biostatistical Problems in Forecasting the Prevalence of Alzheimer's Disease" World Psychiatric Congress, Baltimore, March, 2001

"Using Latent Growth Models and Exploratory Methods to Assess the Relationship Between Responses in a Bivariate Prevention Model (with M. Reiser) Society for Prevention Research, Annual Meeting, Washington DC, May 1997

"Standard Metrics and Methods for Conducting Avian Wind Energy Interaction Studies (with R. Anderson) American Wind Energy Association Conference, Austin Texas, June, 1997

"A Randomized Clinical Trial of a Group Empowerment Program for Somatizing Patients: Six Months Follow-up Results", (with J. C. Peirce, A. Miller and J. Westley), invited lecture, Society for General Internal Medicine, Washington, DC, May 1997

"Measuring Effectiveness: Lessons from Heparinizing Patients with Deep Vein Thrombosis and Pulmonary Embolism" (with J. C. Peirce and R. A. Raschke), invited lecture, Society for General Internal Medicine, Washington, DC, May 1997

"Latent Growth Models of the Impact of Intervention on a Bivariate Longitudinal Response", invited lecture, Society for Research on Child Development, Washington, DC, March, 1997

"Developmental Epidemiology and its Implications for Prevention Research" invited lecture (with Sheppard Kellam), Life History Society Annual Meeting, London, December, 1996

"Standard Methods for Conducting Avian Mortality Studies", with R. L. Anderson, European Wind Energy Conference, Rome, October, 1996

"Using Multilevel Models to Tease Out Variability in Individual Behavior", invited lecture, Association  
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for Clinical Psychosocial Research, American Psychiatric Association, Boston, October, 1996

"Statistical Issues Arising from Application of the Proximal-Distal Model in Prevention Research, Society for Prevention Research, San Juan, Puerto Rico, June, 1996.

"Recent Advances in Prevention Methodology: Multilevel Models", invited lecture, Prevention Methodology Conference, Tempe, Arizona, May 1996

"Advances in the Methods of Prevention Research", invited lecture, National Forum on Prevention, McLean, VA, May, 1996

"Multilevel Models in Prevention Science", invited presentation, Prevention Science Methodology Group meeting, College of Public Health, University of South Florida, Tampa, March, 1996

"Prevented Fractions and Attributable Risk in Proximal Distal Prevention Models", invited lecture, College of Public Health, University of South Florida, Tampa, February, 1996

"Prevented Fractions and Attributable Risks in Preventive Trials", invited paper, Prevention Science and Methodology Conference, Baltimore, MD, October, 1995

"The Use of Epidemiological Measures to Estimate the Effects of Adverse Factors and Preventive Interventions", Workshop on Avian Mortality, Palm Springs, September, 1995

"The Use of Epidemiological Measures to Estimate the Effects of Adverse Factors and Preventive Interventions", invited presentation, Workshop on Avian Mortality and Avian Windpower Planning Meeting, Department of Energy, Palm Springs, September, 1995

"Methodological Advances in Prevention Research", with S. Kellam and J. Anthony, invited symposium, Prevention Research Society, Scottsdale Arizona, June 1995

"Multilevel Modeling and the Development of Aggressive Behavior", invited paper, World Psychiatric Association, New York, May, 1995

"Attributable Risk and Preventive Fractions in Prevention Research", invited lecture, Workshop on the Science of Prevention, NIMH, Baltimore, December, 1994

"Reduction of Aggressive Behavior Among First Graders and Its Consequences for Later Antisocial Behavior and Drug Use", with S. Kellam, H. Chilcoat, J. Anthony, G. Rebok, and N. Ialongo, invited lecture, Society for Prevention Research, Washington, June, 1994

"The Impact of Failure on Boys and Girls: Preventive Intervention Studies on Achievement and Depression" with S. Kellam, G. Rebok, and N. Ialongo, Society for Life History, Durham, November, 1993

"The Course and Malleability of Aggressive Behavior", with S. Kellam, G. Rebok, and N. Ialongo, invited lecture, American Society of Criminology, Annual Meeting, Phoenix, October, 1993

"Mediated Effects in Structural Equation Models", invited paper, American Statistical Association Annual Meeting, August, 1992

"The Course and Malleability of Aggressive Behavior in Young Children", invited presentation, with S. Kellam, et. al., National Academy of Science Institute of Medicine, Committee on Prevention of Mental Disorders, June, 1992

"Developmental Epidemiology and the course of Aggressive Behavior", Life Course Development Society, Philadelphia, April, 1992

"Modeling the Cotemporal Effects in a Cross-Lagged Panel Model", ASA Annual Meeting, New Orleans, August, 1988

"Estimating Multivariate Continuous Variable Panel Models", ASA Annual Meeting, San Francisco, August, 1987

"Inferences in Cross-Lagged Panel Models," invited paper, AIDS Convention, Phoenix, March, 1986

"Recent Advances in Cross-Lagged Panel Analysis," invited lecture, Southwest Social Science Convention, San Antonio, March, 1986

"Hypothesis Testing with Continuous Variable Panel Data," Annual Meeting, Biometrics Society (WNAR), San Luis Obispo, June, 1985

"Multivariate Cross-Lagged Panel Models: Does IQ Cause Achievement?" invited lecture, Regional Meeting, Institute of Mathematical Statistics, Humboldt State University, Arcata, CA, June, 1983

"Analysis of the U.S. Short-Term Integrated (Energy) Forecasting System," invited lecture, International Energy Conference, Berlin, October 1981

"Assessing Energy Models: A Policy Process Approach," invited lecture, Workshop on Energy Model Validation, National Bureau of Standards, January 1979

"Energy Use and Potential for Conservation," (with David Harrje et al.), invited lecture, International Conference on Energy Use Management, Tucson, October 1977

"Large Data Sets and the Meta-Theorems of Exploratory Data Analysis," invited lecture, American Statistical Association, Special Topic Meeting, Dallas, 1977

"The Internalization of Cosmopolitan-Local Orientations Among College Students," (with W. Snizek), invited lecture, Southern Sociological Association, Washington, D.C., April 1975

"Equivalent Estimation and a Special Group Structure," (with T. Woteki), invited lecture, Regional Meeting, Institute of Mathematical Statistics, Minneapolis, March 1975

"The Use and Abuses of Probability in Voting Theory Models," invited lecture, Annual Meeting, Public Choice Society, New Haven, April 1974

"Some Problems with the Theory of Coalitions as Applied to the Judiciary," invited paper, Annual Meeting, American Political Science Association Convention, Chicago, August 1974

"On Principal Components and Clusters," invited lecture, Annual Meeting, International Classification Society, Atlanta, Georgia, April, 1973

"On Biased Estimation in Linear Models," invited lecture, Annual Meeting, American Statistical Association, New York, December, 1973

"Invariant Estimation with Applications to Linear Models," (with M.S. Younger), Institute of Mathematical Statistics, Blacksburg, Virginia, Academy of Science, May, 1972

"On Biased Estimation in Linear Models," invited lecture, Virginia Academy of Science, Lexington, Virginia, May, 1972

"Methods of Cluster Analysis Which Utilize Principle Components," invited lecture, International Classification Society Convention, Chicago, Illinois, April 1972

"A Method of Cluster Analysis," invited lecture, Annual Meeting, Biometrics Society, Fort Collins, Colorado, August, 1971

"Measures of Association," invited lecture, International Studies Association, San Juan, Puerto Rico, March, 1971

"Utilizing Initial Estimates in Estimating the Coefficients in a General Linear Model," Annual Meeting, Institute of Mathematical Statistics, Laramie, Wyoming, August 1970

**Speeches, Presentations, Lectures and Colloquia:**

"Validating Biomarkers in Psychiatry", Department of Psychiatry, University of Athens, Athens, Greece, October, 2006

"Fitting Failure Models to the Incidence of Alzheimer's Disease: Methodological Problems", invited lecture, Johns Hopkins School of Public Health, Noon conference series on Mental Heath, January, 2001

"Psychiatric Epidemiology", Residency Program in Psychiatry, Samaritan Health System, September, 2000

"Critical Appraisal in Internal Medicine", invited speaker, Good Samaritan Internal Medicine Program. April, 2000

"Psychiatric Epidemiology", Residency Program in Psychiatry, Samaritan Health System, September, 1999

"Tradeoffs Between Latent Growth Models and Epidemiological Models of Preventive Interventions, invited colloquium, Department of Mental Hygiene, Johns Hopkins School of Hygiene and Public Health, October, 1998

"Psychiatric Epidemiology", Residency Program in Psychiatry, Samaritan Health System, September, 1998

"Advances in Psychiatric Epidemiology", Clinical Epidemiology Section, Royal Medical Society (Edinburgh), August, 1998

"Latent Growth Models and Attributable Risks", luncheon speaker, Fellowship in Drug Epidemiology, Johns Hopkins University, April 1998

"Attributable Risk Measure in Mediational Impact Models: Somatizing Behavior", invited colloquium, Department of Mental Hygiene, Johns Hopkins School of Hygiene and Public Health, March, 1998

"Statistical Issues in Using Attributable Risk Measures in Intermediate Outcome Models",  
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Department of Statistics, The University of Lancaster, Lancaster, England, June, 1997

"Statistical Problems that Arise in Applying Intermediate outcome Models in Prevention Research", invited lecture, Department of Statistics, Virginia Polytechnic Institute and State University, Blacksburg, Virginia, May, 1997

"The Epidemiology of Thyroid Disease", invited lecture, Grand Rounds in Endocrinology, Samaritan Health Services, April, 1997

"Attributable Risk and Preventive Fractions in Prevention Research", invited lecture, Workshop on the Science of Prevention, NIMH, Baltimore, December, 1994

"Advances in Prevention Methodology", invited lecture, Prevention Research Center, Johns Hopkins University, September, 1994

"Multi-level Modeling in Prevention Research", invited colloquium, Prevention Research Center, Arizona State University, April, 1994

"Multi-level Modeling of Health Data; The Effects of Intervention on Aggressive Behavior", invited lecture, Program in Developmental Biology, University of North Carolina, April, 1994

"Mediation in Intermediate Variable Models", Department of Epidemiology and Biostatistics, College of Public Health, University of South Florida, March, 1994

"Assessing the Impact of Interventions on Proximal and Distal Outcomes" NIMH Prevention Research Center Directors Meeting, October 1993 with Reiser, M. and Warsi, G

"Epidemiology and Social Methodology: Complementarity in Prevention Research", invited presentation, with S. Kellam, et. al., NIMH Prevention Research Conference, Tysons Corners, VA, April, 1993

"Statistical Issues in Prevention Research", invited lecture, Directors' Meeting, Prevention Research Center Directors Meeting, National Institute of Mental Health, Rockville, Maryland, October, 1992

"The Course and Malleability of Aggressive Behavior in Young Children", invited presentation, with S. Kellam, et. al., National Academy of Science Institute of Medicine, Committee on Prevention of Mental Disorders, June, 1992

"Causal Models in Prevention Research: Mediation Moderation and Confounding", invited seminar, Carl A. Taube Memorial Colloquium Series in Psychiatry and Mental Health, Johns Hopkins University, May, 1992

"Breast Implants, Risk Surveillance and Health Statistics", invited lecture, MBA Special Colloquium Series, Arizona State University, March, 1992

"Proximal/Distal Effects on Two Developmental Epidemiologically-Based Preventive Interventions", invited seminar, Colloquium Series in Mental Health, Johns Hopkins School of Hygiene and Public Health, February, 1992

"Analyzing Subgroups and Contextual Effects" [with Sheppard Kellam], invited presentation, Directors' Meeting, Prevention Research Center Directors Meeting, National Institute of Mental Health, Rockville, Maryland, September, 1991

"Proximal/Distal Effects on Two Developmental Epidemiologically-Based Preventive Interventions" [with Sheppard Kellam, et. al.], invited seminar, Carl A. Taube Memorial Colloquium Series in Mental Health, Johns Hopkins School of Hygiene and Public Health, September 1991

"The Epidemiology of Preventive Care in the Workplace", invited lecture, Phoenix Chapter, Association of Corporate Fitness Directors, Phoenix, May 1991.

"Statistics, Medicine and the Law", Invited Lecture, East Mesa Doctors Club, November 1990

"Statistical Models in the Analysis of Panel Data", invited lecture, Department of Biostatistics, Johns Hopkins School of Hygiene and Public Health, April, 1990

"Applications of Statistics to Occupational Health Problems", invited lecture, Department of Statistics, MacQuarie University, Australia, October, 1989

"Panel Models and Policy Analysis", invited lecture, Lincoln College, Christchurch, New Zealand, September 1989

"Panel Analysis and Occupational Health Analysis", invited lecture, University of Otago, New Zealand", September 1989

"Current Trends in Data Analysis, invited lecture, MBA colloquium, University of Canterbury, Christchurch, New Zealand, September 1989

"Managing the Health of Workers and the Health of the Firm", invited banquet speech, Conference on Analysis of Occupational Health Risks, Phoenix, August 1987

"Panel Models, Covariance Structures and the Exclusion of Liberals from 'Death-Sentence' Juries", invited colloquium, Department of Statistics, Stanford University, August, 1986

"A Statistician Looks at Panel Analysis or a Perfidious Peek at Pundits and Pookas," invited lecture, Arizona Chapter, American Statistical Association, March, 1984.

"A Statistician Looks at Panel Analysis", invited lecture, College of Business, University of Tennessee, June, 1983

"The Use of Panel Models in Non-experimental Research", invited lecture, College of Medicine, University of California, San Francisco, June, 1983

"Competing Approaches to Analysis of Panel Data", invited lecture, Econometrics Seminar, Stanford University, May 1983

"Science Analysis in Politics and the Politics of Science Analysis", invited lecture, Butler University, Indianapolis, March, 1983

"Statistical Problems in Panel Models", invited lecture, College of Education, Stanford University, March, 1983

"A Statistician Looks at Panel Analysis or a Perfidious Peek at Pundits and Pookas", invited lecture, Department of Computer and Information Sciences, University of California, Santa Cruz, February, 1983

"A Statistician Looks at Panel Analysis or a Perfidious Peek at Pundits and Pookas", invited lecture, Department of Computer and Information Sciences, University of Santa Clara, February, 1983

"Statistical Problems in Panel Analysis", invited lecture, Department of Mathematics, University of California, Santa Barbara, February, 1983

"A Statistician Looks at Panel Analysis", invited lecture, Department of Statistics, University of Arizona, February, 1983

"A Crossed Lagged Penal Analysis of Cross-Lagged Panel Analysis", invited colloquium, Department of Statistics, Stanford University, January, 1983

"Some Exciting Problems in Energy Modeling", invited lecture, Department of Mathematics, Arizona State University, August, 1982

"Statistical Problems in Short-term Energy Forecasting", invited lecture, Energy Information Administration, Washington, D.C., February, 1982

"Problems in Forecasting Energy Supplies", Decision Sciences Seminar, Wharton School, September, 1981

"Energy Policy: Myth and Reality", invited lecture, Philadelphia Business Seminar, April, 1981

"Energy Management: Building Image and Minimizing Liabilities", invited lecture, Wharton Executive Development Seminar, April, 1981

"Evaluating Energy Models", invited lecture, Delaware Chapter, American Statistical Association, University of Delaware, May, 1980

"Evaluating Models of Resource Depletion", invited lecture, Department of Economics, New York University, April, 1980.

"Exploratory Methods and the Art of Data Analysis", Dinner speech, Philadelphia Chapter, American Statistical Association, October, 1979

"Models of Domestic Oil Resources: Science Products and Political Agents", invited lecture, Thayer School of Engineering, Dartmouth College, March, 1979

"Models of Sequential Voting", invited lecture, Department of Political Science, Dartmouth College, March, 1979

"Estimating Oil Reserves: The Methods, Models and Policy Issues", invited lecture, School of Public and Urban Policy, University of Pennsylvania, December, 1978

"Estimating the Domestic Crude Oil Resource Base: Examining the King's Approach", invited lecture, Department of Statistics, University of Pennsylvania, November, 1978

"Picking a Multivariate Test Function, The Eenie-Meany Principle", invited lecture, Montreal Joint Statistics Colloquium, Montreal, November, 1977

"Econometric Energy Models: The Emperor's Quantitative Suit", invited lecture, Department of Commerce, October, 1977

"Exploratory Data Analysis as an Alternative to the Econometric Analysis of Social Problems," invited lecture, Department of Psychology, College of William and Mary, April, 1977

"Analyzing Energy Policy: The Competing Roles of the Economist, Engineer and Mathematician", invited lecture, Department of Mathematics, University of South Carolina, April, 1977

"Analyzing Political Data: What Can Statistics Tell Us?," invited lecture, School of International Studies, University of Denver, May, 1976

"Schur-Convexity and the Equivalence of Multivariate Tests", invited seminar, Department of Statistics, Rutgers University, October, 1975

"On Communal Indifference Curves," (with I.J. Good), invited seminar, Mathematical Economics Seminar, Virginia Polytechnic Institute and State University, October, 1975

"The Statistical Analysis of Energy Problems: Who Should We Believe?", invited lecture, Office of Energy Analysis, Department of Commerce, October, 1975

"Energy Research and Residential Housing", invited lecture, The Federal Energy Administration, September, 1975

"Consumer Reaction to the Energy Crisis: The Long Underwear Effect", invited address, West Virginia University, February, 1975

"Mathematical Models and other Forms of Hocus-Pocus", invited lecture, Department of Political Science, West Virginia University, February, 1975

"Factor Analysis: The Short Bed Problem", invited lecture, Department of Statistics and Operations Research, University of Pennsylvania, March, 1975

"LSD and Political Science: Distinguishing Uppers and Downers", invited address, Western New England College, November, 1974

"Probability, Statistics and the Theory of Democracy", invited lecture, Department of Statistics, University of Connecticut, October, 1974

"Statistical Policy Analysis: Assessing the Unobservable", invited lecture, Department of Statistics, Princeton University, January, 1974

"On Procedures for Comparing Factor Matrices", invited lecture, Department of Statistics, University of Connecticut, January, 1974.

"A Mathematician's Doubts About Econometric Solutions to Political Problems", invited lecture, Department of Political Science, Ohio State University, May, 1973

"Estimating the Relationship Between Unobserved Variables, or Can We Sell the Second Canonical Correlation to the Social Scientists?", invited lecture, Department of Statistics, Ohio State University, May, 1973

"Generalized Spatial Models of Voting Theory", invited lecture, Center for Public Choice, Virginia Polytechnic Institute and State University, February, 1973

"Estimating the Relationship Between Ordinal Variables", invited lecture, Department of Statistics, Harvard University, 1973.

"Some Statistical Problems in Spatial Models", invited colloquium, Department of Statistics, Carnegie-Mellon University, Pittsburgh, October, 1972.

"Sex, the Generation Gap, and Fermat's Last Theorem", invited speech, Tidewater Council of Teachers of Mathematics, Norfolk, Virginia, September, 1972

"Mathematics: Is it Irrelevant by Necessity or Design?", invited lecture, Department of Mathematics, Emory and Henry College, Emory, Virginia, April, 1972

"Is There Reason for a Mathematician to help a Social Scientist?", invited to deliver annual Phi Mu Epsilon Lecture, Blacksburg, Virginia, 1972

"Probability Without Calculus and Statistics Without Mathematics", invited lecture, Virginia Mathematics Teachers Annual Convention, Roanoke, Virginia, November, 1972

"If Educators Educate Educators, Who Educates the Educated?", banquet address, State Mathematics Teachers Convention, Norfolk, Virginia, 1971

"Two-Stage Estimation in linear Models", invited lecture, Department of Statistics, Pennsylvania State University, January, 1971

"Problems in Cluster Analysis", invited lecture, Department of Applied Statistics, University of Minnesota, January 1971

#### **Papers in Proceedings:**

Mayer, L. S. and Reiser M.(1992) "Mediation and Confounding in Panel Models of Prevention Research" Proceedings of the Social Statistics Section, American Statistical Association

Mayer, L. S. and Carroll, S. S.(1988) "Modeling the Cotemporal Effect in a Cross-Lagged Panel Model," Proceedings of the Business and Economics Section, American Statistical Association

Carroll, S. S. and Mayer, L. S. (1987) "Testing for Serial Correlation in Cross-Lagged Panel Studies," Proceedings of the Business and Economics Section, American Statistical Association

Carroll, S. S. and Mayer, L. S. (1986) "Evaluation of the Cross Effects Parameters in a Cross-Lagged Panel Model," Proceedings of the Business and Economic Section, American Statistical Association

Mayer, L. S. (1985) "Hypothesis Testing in Cross-Lagged Panel Models," Proceedings of the Social Statistics Section, American Statistical Association

Mayer, L. S. and Carroll, S. S. (1985) "Testing for Serial Correlation in Cross-Lagged Panel Studies," Proceedings of the Business and Economics Section, American Statistical Association

Mayer, L.S. et. al. (1982). "Analysis of the U.S. Short-Term Integrated (Energy) Forecasting System," Proceedings of the International Conference on Energy Use Management, New York: Pergamon Press, 971-982

Harrie, D. and Mayer, L.S. (1978). "Energy Use and the Potential for Conservation," Proceedings  
Page 27 of 30

of the International Conference on Energy Use Management, Volume II, R. Fazzolare and C. Smith (eds.), New York: Pergamon Press, 749- 771

Mayer, L.S. (1978). "The Use of Semi-Controlled Experiments in the Analysis of Residential Energy Demand," Proceedings of the 1978 Department of Energy Symposium, Washington: Government Printing Office

Mayer, L.S. (1978). "The Value of the Econometric Approach to Forecasting Our Energy Future," Proceedings of the International Conference on Energy Use Management, Volume III, R. Fazzolare and C. Smith (eds.), New York: Pergamon Press, 1073-1082

Mayer, L.S. (1978). "Difficulty in Developing Local Energy Policy," expert testimony, Hearings on Local Energy Policy, Washington: U.S. Congress

Mayer, L.S. (1977). "Exploratory Data Analysis and Classical Statistics: Their Abilities to Shed Light on Energy Issues," Proceedings of the 1977 Department of Energy Symposium, 27-32, Washington: Government Printing Office

#### **Published Abstracts:**

"Equivariant Estimation and A Special Group Structure", (with T. Woteki), Bulletin of the Institute of Mathematical Statistics, 1975

"A Fortran Program for Linear Log Odds Analysis", (with P.J. Pichotta), Behavior Research Methods and Instrumentation, 1974, 6, p. 521

"Invariant Estimation in the Social Sciences", (with M. S. Younger), Bulletin of the Institute of Mathematical Statistics, 1973

"On Principal Components and Clusters", Bulletin of the International Classification Society, 1973

"Methods of Cluster Analysis Which Utilize Principal Components", Bulletin of the International Classification Society, 1972

"Utilizing Initial Estimates in Estimating the Coefficients in General Linear Model", Annals of Mathematical Statistics, October 1970

#### **Society Membership:**

Society for Epidemiological Research, Society for Environmental Epidemiology, Royal Statistical Society, Society for Medical Decision Making, American Statistical Association, Biometrics Society, Institute for Mathematical Statistics, Psychometric Society, Econometric Society, American Association for the Advancement of Science, American Political Science Association, American Sociological Association, and Council for Applied for Social Research.

#### **Courses Taught at Arizona State University and Banner Good Samaritan Medical Center**

Epidemiology, Epidemiology Methodology, Clinical Epidemiology, Panel Analysis, Biostatistics, Multiple Regression, Time Series Modeling, Applied Forecasting Methods, Stochastic Processes, Exploratory Data Analysis, Seminar in Multivariate Analysis, Advanced Topics in Statistical Inference, Advanced Topics in Linear Models, Advanced Research Methods.

#### **Courses taught at other Universities:**

Undergraduate:

Biostatistics, Data Analysis, Nonparametric Methods, Regression Analysis, Mathematical Statistics, Mathematical Modeling, Design of Experiments, Statistics for the Social Sciences, Educational Statistics, Statistics and Public Policy, Computers and Society, Forecasting.

Graduate:

Biostatistics, Clinical Epidemiology, Statistical Forecasting, Exploratory Data Analysis, Epidemiological Methods, Econometrics, Applied Multivariate Statistics, Advanced Multivariate Statistics, Stochastic Processes, Advanced Probability, Linear Models, Advanced Inference, Time Series, Sampling Theory, Quantitative Methods of Policy Analysis, Philosophy of Science, Advances in Social Methodology.

Professional:

Statistics and Public Policy (Woodrow Wilson School, Princeton University); Advanced Study in Energy Analysis (Wharton MBA Program, University of Pennsylvania); Advanced Study in Statistics and Law (Law School, University of Pennsylvania); Medical Statistics (College of Medicine, Ohio State University)

**Notable University Committees:**

Member, Graduate Committee on Ph.D. program in Health Services Administration and Policy, Arizona State University (ASU) 1991-1992

Member, Executive Board, Program on Law and the Social Sciences, ASU, 1983-1989

Faculty Senate (elected), ASU, 1987-89

University Services Committee, ASU, 1988-89

Council on Research and Creative Activities, ASU, 1986-1988

Sunset Review Committee, Meteorite Center, ASU, 1987

Sunset Review Committee, Energy Research Center, ASU, 1987

Chair, Sunset Review Committee, Center for Advanced Research in Transportation, ASU, 1987

Women Studies Research Awards Committee, ASU, 1984-1989

Board, Ph.D. Program in Justice Studies, ASU, 1987-1989

Biomedical Research Committee, ASU< 1986-1988

**Notable Previous University Committee Assignments:**

Member, Health Professions Advisory Board, University of Pennsylvania, 1980-83

Member, Environmental Task Force Committee, Office of the Provost, University of Pennsylvania, 1979-82

Member, Committee on Undergraduate Student Life, Princeton University, 1976

Member, Council of Masters, Princeton University, 1976-79

Fellow, Princeton Inn College, Princeton University, 1975-76

Member, Chair Search Committee, Department of Statistics, Virginia Polytechnic Institute and State University, 1972-74

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*lsmmdphd@gmail.com*

LSM appearances and depositions for the previous four years updated 9 August 2016:

1. Appearances: None

2. Depositions:

*Dean Mostofi, Pro Se, v. Whole Foods Market Group*, Superior Court of the District of Columbia, No. 2011 CA 0000369 B, held on the June 14<sup>th</sup>, 2012 in Washington DC.

**ROBERT ANTHONY NORMAN, SR v. ASBESTOS DEFENDANTS, CIVIL DISTRICT COURT, PARISH OF ORLEANS, STATE OF LOUISIANA, NO. 2007-15314**, held on the July 16<sup>th</sup>, 2012, in New Orleans, LA.

**DELORES TIETZ and MILTON TIETZ v. ABBOTT LABORATORIES, CIRCUIT COURT OF COOK COUNTY, ILLINOIS , COUNTY DEPARTMENT, LAW DIVISION, No. 12L-0002715**, held on November 12, 2012 held on the 3<sup>rd</sup> January, 2013 in Phoenix, AZ.

**Bell v. Celestino**, Circuit Court for Miami-Dade County, No. 09-43951 CA 10, held on the May 16<sup>th</sup>, 2013 in Miami, FL.

**Roberts v. Fredericksburg Healthcare**, Circuit Court for the County of Spotsylvania, Virginia, no. CL 11-1288, held on the 3<sup>rd</sup> April, 2013 in Phoenix, AZ.

**Sowards v. Las Cruces Medical Center**, Third Judicial District Court, County of Dona Ana, State of New Mexico, no. D-307-CV-2009-02563, held on the 13<sup>th</sup> October, 2013 in Phoenix, AZ.

**Sowards v. Las Cruces Medical Center**, Third Judicial District Court, County of Dona Ana, State of New Mexico, no. D-307-CV-2009-02563, held on the 15<sup>th</sup> July, 2014 in Phoenix, AZ.

**Hilverding v. Steptodont, Inc. and Novocol Pharmaceutical of Canada, Inc.**, Court of Fulton County, State of Georgia, No. 13EV018074B, held on the 15<sup>th</sup> January, 2015 in Phoenix AZ.

**Hilverding v. Steptodont, Inc. and Novocol Pharmaceutical of Canada, Inc.**, State Court of Fulton County, State of Georgia, No. 13EV018074B, held on the 10<sup>th</sup> February, 2015 in Annapolis, MD.

**Prelas v Mercedes Benz, USA, LLC**, Circuit Court, Boone County, State of Missouri, O9BA-CV2409, held on 17<sup>th</sup> April 2015, Phoenix, AZ.

**Hilverding v Septodont, et. al**, State Court of Fulton County, State of Georgia, Civil Action NO. 13EV018074B, held on the 31<sup>st</sup> August, 2015 in Annapolis, MD.

**Hyoung v Target Corporation**, SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES, State of California, No. NC0580059, Laguna Hills, CA, held on the 6<sup>th</sup> Janauary, 2016, Laguna Hills, CA.

**Environmental Research Center Aloe Vera of America** SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO, State of California, held on the 20<sup>th</sup> January 2016, San Francisco, CA.

# EXHIBIT L

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA**

JOAQUÍN CARCAÑO *et al.*,

Plaintiffs,

*v.*

CASE NO. 1:16-CV-00236-TDS-JEP

PATRICK MCCRORY *et al.*,

Defendants

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UNITED STATES OF AMERICA,

Plaintiff,

*v.*

CASE NO. 1:16-CV-00425-TDS-JEP

STATE OF NORTH CAROLINA *et al.*,

Defendants

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## **DECLARATION OF WALT HEYER**

**1.** I provide the following testimony under penalty of perjury, pursuant to 28 U.S.C § 1746.

I have personal knowledge of the matters stated, and am not being compensated for this testimony.

**2.** I was born a male and started my transgender journey in 1944 at 4 years of age. That's when the desire to become female first took hold. I bring over 70 years of personal life experience to the discussion of transgenderism. I underwent transition from male to female and lived as a woman for eight years, only to see first-hand it was not the proper treatment for Gender Dysphoria. Instead of helping, it inflicted great harm.

**3.** My view of the transgender experience comes from the perspective of having lived my life as a transgender bolstered by relevant education, employment and mentoring of other transgenders like myself who regret ever having attempted to change from one sex to another.

**4.** I studied at UC Santa Cruz in the late 1980s and completed the course requirements for a certificate in psychology and pharmacology, working to become a counselor. I interned as a counselor to drug dependent individuals in San Jose, California, earning over 2500 hours of supervised counseling experience.

**5.** I was employed at a Santa Monica hospital near Los Angeles in the lockdown psychiatric unit. As part of my internship I was a counselor to the dual diagnosed psychiatric patients in the hospital who needed 24-hour care. Later, I became the Director of Care/Counseling Ministries in Indian Wells, California at a church of over 3,000 regular attendees and served in that position for 3 ½ years. Ten years ago, I launched my website to reach out to those who regret having undergone a sex change and want to restore their innate sex and their life.

**6.** My story of restoration gives much-needed hope to individuals contemplating suicide and provides a roadmap back to living life in their innate gender. I have authored 5 books<sup>1</sup> and been interviewed for television, radio and print media around the world. Over 350,000 people from 180 countries came to my website [www.sexchangeregret.com](http://www.sexchangeregret.com) in calendar year 2015 alone. I am considered a leading authority by many on the subject of transgender ideology. My blog and books all serve to help individuals return to the gender they lost and to help their families.

**7.** Over the last 10 plus years I have informally mentored and assisted scores of transgenders who regret changing from male to female or female to male. I encourage those who

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<sup>1</sup> *A Transgender's Faith* – Walt Heyer's autobiography.  
*Paper Genders* – the history of failed attempts to resolve psychiatric or psychological disorders with surgery.  
*Gender, Lies and Suicide* – The tragedy of transgender suicide, with personal stories and research data.  
*Perfected with Love* –Walt Heyer's story gives insight into how to show God's love to a transgender person.  
*Kid Dakota and the Secret at Grandma's House* – a novel based on Walt Heyer's life.

contact me who have Gender Dysphoria to seek psychological and psychiatric assessment for other disorders that are also present, which is the case in a majority of those who desire to change genders.

**8.** Over seventy years ago, at four years of age, I was drawn to cross-dressing for reasons that were unknown to me. My grandmother encouraged me and she enjoyed our secret times of playing dress-up. I liked how I felt dressed like a little girl and I liked how Grandma fawned over me. The desire to not only cross-dress but to actually become a female took root and grew stronger every day. From that onset in 1944 at Grandma's house the persistent unrelenting desire never went away for even a day.

**9.** My grandmother made me a full length purple chiffon evening dress to wear in our secret play times. Her excitement of seeing me in that hand-made dress was affirmation to me that I should have been born a girl and made the feelings to want to change into a girl even stronger.

**10.** I started dreaming as if I were already a little girl. In one of the most memorable dreams I was the girl in the purple chiffon evening dress walking alongside a tall man strolling down the sidewalk.

**11.** The feelings never went away. I kept my feelings inside and did not share my female identity with my older brother or talk about my feelings with my parents. I lived my life as a boy outside and as the girl in the purple dress inside. That was quite okay with me. I liked keeping the secret that I wanted to become a female someday from everyone. There was no stress with keeping it secret. In fact, that was a major plus in keeping my girl excitement about my future. No one would know to ask me uncomfortable questions like why I felt that way or how my feelings started.

**12.** High school was a great time and I did typical boy activities: football team, car club, dating girls. I told my best friend about my girl side. He was cool and never told anyone. We never talked about it again and remained great friends. Like most transgenders I have known over the last 35 years, I was not homosexual. I just wanted to change genders. Transgenderism for me was not a sexual issue but rather a strong desire to express my female feelings to the world. In my secret world, I even took on a female name.

**13.** Throughout my childhood even during my high school and college years I continued the secret cross-dressing I enjoyed so much.

**14.** Eventually I got engaged and told my future wife about my cross-dressing and my early childhood. She was undaunted by the idea and we got married in 1962. By 1968 we had two kids and my career was unfolding in incredible ways.

**15.** After some specialized education in electronic drafting I became an associate design engineer on the Apollo space missions program, working in the area of cryogenics as part of a team that prepared specifications for NASA. Later, in the automotive manufacturing business, I quickly worked my way up to the executive level. Yet the desire to cross-dress and change genders never went away, even for one day.

**16.** By the time I was in my thirties in the 1970s I started to hear about individuals who were changing genders. They said they had a strong desire, just like I did, and there was a name for it: Gender Identity Disorder (what is now called Gender Dysphoria). At the cross-dressing bars in San Francisco that I frequented, people were talking about a doctor who would administer cross-gender hormones. I wanted to fulfill the dream that started at Grandma's house when I was four years old, to become a girl.

**17.** I needed to find out if I had Gender Identity Disorder and scheduled an appointment with a leading expert, Dr. Paul Walker, PhD, the distinguished chairperson and one of the original authors of the Harry Benjamin International Standards of Care, the same standards published today by the successor organization, World Professional Association for Transgender Health (WPATH).

**18.** The WPATH organization is such a strong advocacy group they have lost their way in caring for the long-term health and welfare of the transgender population. WPATH has failed to set effective, sound standards for diagnosing co-existing psychiatric and psychological disorders that lead to regret and too many suicides among transgender people.

**19.** Dr. Walker diagnosed me with Gender Identity Disorder and provided an approval letter that said I was someone who would benefit from hormone therapy and gender reassignment surgery. I started hormone therapy at the direction of Dr. Walker. I waited more than two years then returned to see Dr. Walker again to see if he had changed his diagnosis of me.

**20.** Dr. Walker was steadfast in his diagnosis and the need for me to be treated with hormones and gender reassignment surgery. He prepared an updated letter, again approving me for male-to-female surgery.

**21.** I looked forward to finally having resolution to my life-long desire to be female and I scheduled the surgery. As a result, my wife filed for divorce. I went ahead with the gender reassignment surgery in the hands of the world-renowned Dr. Stanley Biber, who over his lifetime performed over 4,000 sex reassignment surgeries. Reassignment surgery for male to female consists of removing the testicles while retaining the penis, but surgically inverting the penis into a pouch. No female genitalia are ever used. Legally I became Laura Jensen, female.

**22.** I lived nearly 8 years as a female in San Francisco working for the federal government at the FDIC and the US Postal Service. I began studying psychology at the University of Santa Cruz. I wanted to better understand addictive behaviors and wanted to learn how I could help other people who were struggling from difficult childhoods.

**23.** For 8 years, there were happy times at first, but as the years passed my Gender Dysphoria re-emerged. I became concerned and depressed because the male-to-female reassignment surgery was a huge life change and my Gender Dysphoria symptoms had returned. I was switching between Laura and Walt every few days. I was even more confused than I had been before my change to Laura. I consulted a psychologist who told me to “give it time.” Eight years seemed like enough time to me. But the counselor, a specialist in Gender Dysphoria, told me adapting to Laura would take time, even years.

**24.** A new awareness came while I was employed in a psychiatric unit. A staff psychiatrist pulled me aside to ask me questions about my childhood. After a few days of talking with me, he suggested I might have a previously undiagnosed and untreated disorder. At his suggestion I spent time with a psychologist who could assess whether or not I had a co-existing disorder, and if so, what it was.

**25.** That was a turning point for me. I was taken aback when I learned from the psychologists that people who changed genders like me could have additional undiagnosed and untreated disorders, such as depression, anxiety, bipolar disorder, obsessive-compulsive disorder, dissociative disorder, schizophrenia and body dysmorphic disorder, to mention a few.

**26.** With the knowledge I had been suffering all my life from a co-existing disorder in addition to Gender Dysphoria, I went headlong into psychotherapy. There I learned that engaging in cross-dressing at a young age for a two-year period most likely was a contributing

factor of my dissociative disorder. I also have learned I was not alone: dissociative disorders, it has been reported, can be present in nearly 30% of all transgender individuals.

**27.** Dissociative disorder is an extreme coping mechanism, usually a result of, but not limited to, sexual abuse, emotional trauma, physical harm, abandonment, broken homes and deep personal loss. Dissociative disorders are a survival mode, a way to cope.

**28.** The person dissociates from who he really is and attempts to become someone he isn't. The person's identity splits into fragment identities who do not feel the pain of the past. They are all parts of the original person. In my case, Laura was a fragment identity who had the reassignment surgery. There were other fragments: Andrea, Crystal and Nicole were female; JJ and Jimmy were male. To heal, I would need psychological treatment to re-integrate the fragment identities.

**29.** The stunning moment for me came when a psychologist told me that the treatment I had undergone for Gender Dysphoria—hormone therapy and gender reassignment surgery—would make re-integration of the identities extremely difficult because I had a body that was fashioned to look like Laura, but according to the additional diagnosis of dissociative disorder, I needed to reintegrate all the fragments into the surgically mutilated male body of Walt.

**30.** Because Dr. Walker only focused his attention and diagnosis on Gender Dysphoria (a correct diagnosis), he failed to take the next step—exploring the existence of co-existing disorders that might also be causing my gender distress. Dissociative disorder often mimics Gender Dysphoria and as a result is overlooked and undiagnosed. It was clear my co-existing psychological disorder should have been treated prior to any hormones or gender surgery. Hope of living a happy life was fading away. I attempted suicide because I was so distressed. A change of gender identity did not resolve the problems that started in my early childhood.

**31.** It took a long time and restoration was extremely difficult. I was in counseling for years, sometimes meeting every day, but I was finally able to put my Gender Dysphoria to rest through psychotherapy to effectively treat the co-existing dissociative disorder. When the dissociative disorder and the childhood pain that had led to it were treated, the feelings of wanting to be a girl went away. It was only after treating the dissociative disorder that I achieve the serenity and happiness I had always wanted.

**32.** I work with people who regret their change, helping them identify that moment in time, the onset, when Gender Dysphoria captivated their psyche. People who I have worked with all come to realize they were not born with transgenderism. Transgenderism is a learned behavior, a social ideology, not an innate condition from birth.

**33.** Nothing has changed from the days I sought out Dr. Walker for help. The majority of Gender Dysphoria specialists continue to urge individuals to undergo hormone therapy and gender reassignment surgery with a total disregard for considering the possibility of the presence of coexisting psychological disorders that could be the primary cause driving the desire to change genders. I have seen too much unhappiness and regret over the years from hormone therapy and surgeries.

**34.** Almost all those who write to me say their wish to go back comes anywhere from three weeks to fifteen years after changing genders when they realize reassignment surgery and hormones were ineffective as treatment for their Gender Dysphoria.

**35.** Hormones in themselves are powerful drugs and taking them can alter how one looks, thinks, feels and behaves. Taking hormones lures the person into desiring gender reassignment surgery. Hormones and surgery have been known to offer a temporary reprieve, but not a life-

long solution. If hormones and reassignment surgery were a lifetime solution there would be no regret, no unhappiness and drastically fewer transgenders like myself attempting suicide.

**36.** An example of regret came today while writing this summary from a female who wants to change her legal documents back: "Please let me know the steps to detransition legally and change the gender marker back. There is little information on the topic and most discussing stopping hormones or a surgical reversal without discussing the steps to change the legal documents back to birth gender."

**37.** Some who write me are clearly in deep distress, feeling the weight of a huge mistake. One Sunday, on Father's Day, I received an email from a man, an airline captain, who was ready to commit suicide. He had undergone gender reassignment surgery three years prior and realized it was the biggest mistake of his life and now he wanted to take his life. After several hundred emails, phone contact and getting him into counseling, thankfully he is still alive, working through his issues and wanting to return to his innate gender after reassignment surgery.

**38.** Another man, a physician, wrote me expressing his regret with gender reassignment:

How naïve and stupid was I despite being a well-trained physician with nearly two million in the bank. My gender story was the same as most. I felt trapped in the wrong body and thought of little else since age seven. I wanted to be a girl... If I could only go back to the day before my surgery in March of 2005 -- I would run from that surgeon's knife. I have lived and worked as a surgically altered man trying to play the part of a woman for six years... My attempt at being a member of the softer gender was not working, and I had become no more than a caricature and source of amusement for others. Now I was trapped—I was truly a person in the wrong body...I am now trying to correct this wrong, and for the first time I have the love and support of a wonderful loving human being. She has done much to educate me about women and who and what they truly are. Chromosomes do matter, and undeniable birth gender should not be altered.

**39.** Another email illustrates the truth about damaged lives. This man's story of transition started in his teens. When this man's childhood trauma was treated

appropriately, his transgender feelings faded. But tragically, he lost ten years of his life and the ability to father biological children.

I transitioned to female beginning in my late teens and changed my name in my early 20s, over ten years ago. But it wasn't right for me; I feel only discontent now in the female role. I was told that my transgender feelings were permanent, immutable, physically deep-seated in my brain and could NEVER change, and that the only way I would ever find peace was to become female. The problem is, I don't have those feelings anymore. When I began seeing a psychologist a few years ago to help overcome some childhood trauma issues, my depression and anxiety began to wane but so did my transgender feelings. So two years ago I began contemplating going back to my birth gender, and it feels right to do so. I have no doubts--I want to be male!

I did have orchiectomy [the removal of one or both testicles], and that happened before my male puberty had completed, so I have a bit of facial hair which I never bothered to get electrolysis or laser for, and so the one blessing about all this is that with male hormone treatment I can still resume my male puberty where it was interrupted and grow a full beard and deep voice like I would have had if transgender feelings hadn't intruded upon my childhood. My breasts are difficult to hide though, so I'll need surgery to get rid of them. And saddest of all, I can never have children, which I pray God will give me the strength to withstand that sadness.

**40.** The long-term result of providing cross-gender hormones and gender reassignment surgery is too many people whose lives are full of regret.

**41.** I, as best I can, lend a helping hand to anyone who is struggling to restore a life ruined and destroyed by the false idea that hormones and reassignment would resolve the gender conflict. Sadly, there are too many. Through my media appearances and books, I try to give hope in helping them find real wholeness.

**42.** After over 70 years of living on some level with transgenderism I can tell you people are not born with it. They think they are trapped in the wrong body, but it is due to emotional, psychological or psychiatric problems that have not been diagnosed or treated properly. Hormones and surgery aren't the solution for coexisting mental issues.

**43.** Thankfully, the gender change destruction did not define my entire life. By the age of 55, I finally felt whole again living as a man. I've been married now for 19 years. I'm at peace with my body and my male gender and I enjoy helping other people find the same serenity and wholeness that I have found beyond the transgender life.

Signed:



Walt Heyer

Walt Heyer

Date:

8/11/2016

# EXHIBIT M

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF NORTH CAROLINA et al.,

Defendants.

Case No. 1:16-cv-00425-TDS-JEP

**EXPERT DECLARATION AND REPORT OF KENNETH V. LANNING**

This is a preliminary report. As discovery is still underway, there may be a need for this report to be amended or supplemented. I am including a portion of my Curriculum Vitae in this report detailing my education, qualifications, law enforcement training and experience in the public safety field. I have been retained as an expert for the defense in this litigation. A list of materials I reviewed while making this opinion is attached as Exhibit A.

**Summary of Opinions**

1. Multi-occupant public facilities present a special class of public safety risks in connection with the activities of male sex offenders. These public safety risks are magnified substantially by the imposition of gender-identity based access policies or social norms (“GIBAPs”) that purport to create access rights to showers, locker rooms, and restrooms based solely upon patrons’ unverifiable self-declarations of their gender identities. It is not because transgender individuals use facilities that do not correspond with their biological sex that GIBAPs increase public safety risks, but rather because GIBAPs offer increased opportunities for improper and illegal conduct to both situational and preferential sex offenders.
2. By providing a clear objective criterion for who is legally entitled to use women-only facilities, Part I of North Carolina’s HB2 makes it more difficult for male sex offenders to access female victims in public facilities without detection, and makes it more feasible for law enforcement personnel to report, investigate, and prosecute those offenses. Part I of HB2 also sends a clear message to society about what is unlawful in public facilities designated for women and girls and what kinds of activities should be reported to law enforcement officials.

## **Background and Qualifications**

3. My name is Kenneth V. Lanning. After completing my military service as an Explosive Ordnance Disposal officer and diver in the U.S. Navy, I joined the Federal Bureau of Investigation ("FBI") in 1970. I spent over 30 years working as a Special Agent in the FBI, including over a decade as an investigating field agent.
4. I have been involved in the professional study of the criminal aspects of deviant sexual behavior since 1973. In 1973 I received specialized training from the FBI and was designated a field "Sex Crimes" police instructor. While assigned as a field agent in the San Antonio, Texas, and Los Angeles, California field divisions of the FBI from 1973 to 1980, as a collateral responsibility, I conducted training for local, state, and federal law enforcement in the area of sex crimes. To expand my knowledge in this area, I enrolled in graduate school, read books and articles, and consulted with law enforcement investigators who conducted such investigations.
5. In 1981, after obtaining my Masters Degree, I was assigned to the FBI Behavioral Science Unit (BSU) and the National Center for the Analysis of Violent Crime (NCAVC) at the FBI Academy in Quantico, Virginia. The objective of this Unit was the practical application of knowledge of the behavioral sciences to the investigative process. I was assigned there for 20 years (1981-2000) – longer than any other FBI agent. During this time I focused primarily on behavioral analysis of sexual offenses of all kinds, especially those against children. My duties included analyzing and understanding how sex offenders commit their crimes and how their victims respond.
6. As my attached *curriculum vitae* (CV) indicates (see Exhibit B), my primary focus at the BSU was teaching, researching, and consulting regarding sex crime investigation and the behavior of sex offenders. I taught classes accredited by the University of Virginia on "Interpersonal Violence," "Violence in America," and "Sexual Victimization of Children." During my two decades in the BSU, I became one of the world's leading experts in the dynamics of sex offenses and the real world behavior of sex offenders.
7. My expertise, conclusions, and observations concerning sex offender and victim behavior are therefore based on the totality of my reflective experience from being simultaneously involved in training, research, and case consultation in the same subject area for more than 35 years. I conducted original research, monitored the research of others, and studied closed cases. I also benefitted from extensive advanced specialized training in all aspects of the investigation and prevention of sex offenses.
8. As an FBI Agent, when doing case consultations, I had access to detailed law enforcement records (i.e., investigative reports, interviews of offenders and victims, crime scene photographs, medical reports, laboratory reports, computer records, pornography, erotica, collateral evidence, etc.) that are not typically available to mental health professionals and academic researchers. My analysis and conclusions in these cases were based on objective evaluation of the totality of the most detailed, reliable, and corroborated information available.

9. I developed a unique level of expertise through the unequalled opportunities afforded by the BSU's role as consultant to federal, state, local, and international law enforcement agencies. Over the course of twenty years in the BSU, I was able to consult on and evaluate literally thousands of sex offense cases, generally with full access to case investigators and their complete investigative and evidentiary files. I was able to consult on far more cases than I ever would have had the time or the jurisdiction to personally investigate. While assigned to the BSU, I also testified in dozens of state and federal criminal trials involving sex offenses. It is unlikely that any other U.S. law enforcement professional at any level of government has equivalent experience in the field.
10. Over the course of my career, I have provided instruction to well over 50,000 law enforcement officers, prosecutors, social workers, mental health and medical personnel, judges, and other professionals at training schools, seminars, and conferences conducted all over the United States and throughout the world, on topics including but not limited to Crime Prevention, Evaluation of Sex Offenders, Sexual Victimization of Children, Deviant Criminal Sexuality, Nuisance Sex Offenses, Sexual Homicide, Criminal Profiling and Crime Analysis, Sexual Exploitation of Children, and Ritualistic Crime.
11. The following is just a small sampling of the organizations that have invited me to speak and before which I have presented my analysis and findings. Please see my *curriculum vitae*, attached as Exhibit B for a more complete list:
  - Academy of Criminal Justice Sciences
  - American Academy of Forensic Sciences
  - Institute of Law, Psychiatry, and Public Policy
  - Department of Psychiatric Medicine - Western State Hospital
  - Department of Psychology, University of Alabama
  - Johns Hopkins University
  - St Luke Institute for Sexual Disorders
  - Walter Reed Army Medical Center
  - Lee Institute of Forensic Science & University of New Haven
  - University of Virginia
  - University of Southern California
  - National Council of Juvenile and Family Court Judges
  - National Judicial College
  - Flaschner Judicial Institute
  - Bronx County Special Grand Jury
  - Solicitor General of Canada
  - Department of Defense Polygraph Institute
  - National Association of Counsel for Children
  - Association for Treatment of Sex Abusers (ATSA)
  - American Orthopsychiatric Association
  - American Academy of Psychiatry and the Law
  - American Psychological Association

- American Academy of Child and Adolescent Psychiatry
  - Benjamin N. Cardozo School of Law
  - The Association of the Bar of the City of New York
  - American Bar Association
  - Tyndale University College and Seminary
  - U.S. Naval Justice School
  - National Advocacy Center
  - Texas Juvenile Probation Commission
  - 9<sup>th</sup> Circuit Chief District Judges and Lawyer Representatives
  - U.S. Government Accountability Office's Homeland Security and Justice Team
  - American Professional Society on the Abuse of Children (APSAC)
12. I have also researched and written extensively in the field. I have published several monographs and numerous articles for scholarly and professional journals. I have served as a peer reviewer for a number of journals as well, including the *International Journal of Child Abuse and Neglect*, the *Journal of Interpersonal Violence*, *Child Maltreatment*, *Sexual Abuse*, the *FBI Law Enforcement Bulletin*, and *The Police Chief*.
13. Several of my more relevant publications include:
- "Pedophile Collectors," chapter in *Child Pornography and Sex Rings*. Lexington, MA: Lexington Books, D.C. Heath and Company (1984)
  - "Child Pornography and Sex Rings" (co-author), *FBI Law Enforcement Bulletin*, January 1984 (Reprinted in Victoria Police Association Journal, February 1985)
  - *Child Molesters: A Behavioral Analysis*, monograph published by National Center for Missing & Exploited Children (1986) (1987, 2nd Ed) (1992, 3rd Ed) (2001, 4th Ed) (2010, 5th Ed)
  - *The Sexual Exploitation of Children* (contributing author), New York, NY: Elsevier Science Publishing (1986)
  - "Child Molesters: A Behavioral Analysis for Law Enforcement," chapter in *Practical Aspects of Rape Investigation*. New York, NY: Elsevier Science Publishing (1987)
  - "The Maligned Investigator of Criminal Sexuality" (co-author), *FBI Law Enforcement Bulletin*, September 1988
  - "Satanic, Occult, Ritualistic Crime: A Law Enforcement Perspective," *The Police Chief*, October 1989 (Reprinted in *Roundtable* 1990)
  - "Child Pornography," chapter in *Pornography: Research Advances and Policy Considerations*. Hillsdale, NJ: Lawrence Erlbaum Associates Publishers (1989)
  - *Child Sex Rings: A Behavioral Analysis*, monograph published by National Center for Missing & Exploited Children (1989) (1992, 2nd Ed)
  - "Child Molesters Who Abduct" (co-author), *Violence and Victims* (1991)
  - "Ritual Abuse: A Law Enforcement View or Perspective," Commentary in *Child Abuse and Neglect: The International Journal* (1991)
  - "Satanic, Occult, Ritualistic Crime: A Law Enforcement Perspective," *Homicide Investigators Journal*, Spring, 1992 (Reprinted in *Australian Criminal Intelligence Digest*, January 1994)

- *Investigator's Guide to Allegations of "Ritual" Abuse*, monograph Published by U.S. Department of Justice (1992)
- *Crime Classification Manual* (contributing author), New York, NY: Lexington Books (1992)
- "Sexual Homicide of Children," *APSAC Advisor*, Vol. 7, No. 4 (Winter 1994)
- *Child Molesters Who Abduct* (author and co-editor), monograph published by National Center for Missing & Exploited Children (1995)
- "Child Molesters: A Behavioral Analysis For Law Enforcement," chapter in *Practical Aspects of Rape Investigation*, 2<sup>nd</sup> Ed. Boca Raton, FL: CRC Press (1995)
- "Collateral Materials and Sexual Crimes" (co-author), chapter in *Practical Aspects of Rape Investigation* 2<sup>nd</sup> Ed. Boca Raton, FL: CRC Press (1995)
- "Criminal Investigation of Sexual Victimization of Children," chapter in *The APSAC Handbook on Child Maltreatment*. Thousand Oaks, CA: Sage Publications (1996)
- "The Witch Hunt, the Backlash, and Professionalism," *APSAC Advisor*, Vol. 9, No. 4 (Winter 1996)
- *Law Enforcement Response to Child Abuse* (co-author), monograph in the Portable Guides to Investigating Child Abuse Series, U.S. Department of Justice (1997)
- *Understanding and Investigating Child Sexual Exploitation* (co-author), monograph in the Portable Guides to Investigating Child Abuse Series, U.S. Department of Justice (1997)
- "Cyber 'Pedophiles': A Behavioral Perspective," *ASAC Advisor*, Vol. 11, No. 4 (Winter 1998)
- *Use of Computers in the Sexual Exploitation of Children* (co-author), monograph in the Portable Guides to Investigating Child Abuse Series, U.S. Department of Justice (1999)
- "Investigating Potential Child Abduction Cases" (co-author), *FBI Law Enforcement Bulletin*, April 2001
- "The Maligned Investigator of Criminal Sexuality" (co-author), chapter in *Practical Aspects of Rape Investigation*, 3<sup>rd</sup> Ed. Boca Raton, FL: CRC Press (2001)
- "Collateral Materials and Sexual Crimes" (co-author), chapter in *Practical Aspects of Rape Investigation*, 3<sup>rd</sup> Ed. Boca Raton, FL: CRC Press (2001)
- "Child Molesters and Cyber Pedophiles-A Behavioral Perspective," chapter in *Practical Aspects of Rape Investigation*, 3<sup>rd</sup> Ed. Boca Raton, FL: CRC Press (2001)
- "Criminal Investigation of Sexual Victimization of Children," chapter in *The APSAC Handbook on Child Maltreatment*, 2<sup>nd</sup> Ed. Thousand Oaks, CA: Sage Publications (2002)
- "Cyber Pedophiles: A Behavioral Perspective," chapter in *Prosecuting Online Child Exploitation Cases*, US Department of Justice (2002)
- "A Law Enforcement Perspective on the Compliant Child Victim," *APSAC Advisor*, Vol. 14, No. 2 (Spring 2002)
- "The Compliant Child Victim," Guest Co-editor for Special Issue, *APSAC Advisor*, Vol. 14, No. 2 (Spring 2002)
- "Acquaintance Child Molesters: A Behavioral Analysis," chapter in *Medical, Legal, & Social Science Aspects of Child Sexual Exploitation*. St. Louis, MO: G.W. Medical Publishing, Inc. (2005)
- "Compliant Child Victim: Confronting an Uncomfortable Reality," chapter in *Viewing*

*Child Pornography on the Internet.* Dorset, UK: Russell House Publishing (2005)

- "Collateral Materials and Sexual Crimes" (co-author), chapter in *Practical Aspects of Rape Investigation*, 4<sup>th</sup> Ed. Boca Raton, FL: CRC Press (2009)
- "Cyber 'Pedophiles': A Behavioral Perspective," chapter in *Practical Aspects of Rape Investigation*, 4<sup>th</sup> Ed. Boca Raton, FL: CRC Press (2009)
- "Cyber 'Pedophiles': A Behavioral Perspective," chapter in *Serial Offenders: Theory and Practice*. Sudbury, MA: Jones & Bartlett Learning (2012)
- "Twenty-five Years of APSAC: A Personal, Law Enforcement Perspective," *APSAC Advisor*, Vol 24, No 1 & 2 (Winter/Spring 2012)
- "Acquaintance Child Molesters and Youth-Serving Organizations" (coauthor), *Journal of Interpersonal Violence*, Vol 29, No 15 (October 2014)

Some additional publications reprinting or setting forth my typology of child molesters or my sex offender continuum include:

- *Sexual Exploitation of the Child*, Center for Urban Policy, Loyola University of Chicago (1986)
- *Camp Director's Guide: Preventing Sexual Exploitation of Children*, National Center for Missing & Exploited Children and American Camping Association (1988)
- *Violence against Children: Investigator's Desk Manual*, Office of Pennsylvania Attorney General (1989)
- "Screening for Pedophiles in Youth-Oriented Community Agencies," by Arlene McCormack and Marialena Selvaggio. *Social Casework: The Journal of Contemporary Social Work*, January 1989, Vol. 70, No.1
- *On Trial* by Judge Charles B. Schudson, Boston, MA: Beacon Press (1991)
- "Child Molesters: A Behavioral Analysis," *School Safety* (National School Safety Center Newsjournal), Spring 1994
- *A Police Reference Manual for Cases of Child Sexual Abuse*, Canadian Research Institute for Law and the Family (1995)
- *The APSAC Handbook on Child Maltreatment*. Thousand Oaks, CA: Sage Publications (1996, 2002)
- *Profiling Violent Crimes*, 2<sup>nd</sup> Ed., by Ronald M. Holmes. Thousand Oaks, CA: Sage Publications (1996)
- *Sexual Abuse in America*, by Robert Freeman-Longo. Brandon, VT: Safer Society Press, (1998)
- *Criminal Investigation*, 7<sup>th</sup> Ed., by Leonard Territo. Boston, MA: McGraw-Hill Higher Education (2000)
- *Child Pornography: The Criminal Justice System Response*, National Center for Missing & Exploited Children (2001)
- *A Guide to Prevention and Awareness of Abuse for Youth Soccer Associations*. Short Hill, NJ: Bollinger, Inc. (2001)
- *How to Work with Sex Offenders*. New York, NY: Haworth Clinical Practice Press (2001)
- *Prosecuting Online Child Exploitation Cases*, U.S. Department of Justice (2002)
- *Interpol Handbook on Good Practice for Specialist Officers Dealing with Crimes against*

*Children*, Interpol (2003)

- *Child Pornography: An Internet Crime*. New York, NY: Brunner-Routledge (2003)
  - *Introductory Criminal Analysis: Crime Prevention and Intervention Strategies*, by Thomas Baker. Upper Saddle River, NJ: Prentice Hall Publishing (2005)
  - *Investigating Child Exploitation and Pornography: The Internet, The Law and Forensic Science*. Burlington, MA: Elsevier Academic Press (2005)
  - *Medical, Legal, & Social Science Aspects of Child Sexual Exploitation*. St. Louis, MO: G.W. Medical Publishing, Inc. (2005)
  - *Serial Offenders: Theory and Practice*. Sudbury, MA: Jones & Bartlett Learning (2012)
14. I was the recipient of the 1996 Outstanding Professional Award from the American Professional Society on the Abuse of Children (APSAC). One of that organization's key publications, *The APSAC Handbook on Child Maltreatment*, 2<sup>nd</sup> Ed., is dedicated to me.
15. I was the 1990 recipient of the Jefferson Award for Research from the University of Virginia, the 1997 recipient of the FBI Director's Annual Award for Special Achievement for career accomplishments in connection with missing and exploited children, and the 2009 recipient of the Outstanding Service Award for my lifetime achievements from the National Children's Advocacy Center. I was an invited member of the Advisory Board of the Association for the Treatment of Sexual Abusers (ATSA).
16. I have been interviewed concerning the nature and scope of sexual crimes by the CBS, NBC, ABC, Fox Networks, MSNBC, PBS, CNN, ESPN, Frontline, National Public Radio, Associated Press, *Time Magazine*, *Newsweek*, *Reader's Digest*, *Life*, *Parade Magazine*, *Sports Illustrated*, *Ladies' Home Journal*, *People Magazine*, *Los Angeles Times*, *Washington Post*, *New York Times*, *Psychiatric News*, *National Law Journal*, *APBnews.com*, *Legal Times* and dozens of local TV stations and newspapers.
17. Law enforcement agencies and child protection organizations across the country continue to use my work as the foundation of their approach to investigating and preventing sex offenses. For example, law enforcement and others continue to use the sex offender typology I developed as a cornerstone of their work. The National Center for Missing & Exploited Children (NCMEC) has distributed over 211,000 hard copies and had 1.5 million copies accessed online of the 5 editions my monograph *Child Molesters: A Behavioral Analysis*.
18. I have testified seven times before both the United States Senate and United States House of Representatives on various topics related to sexual offenses. I have been qualified to provide expert testimony more than 70 times, in both criminal and civil cases, about my behavioral typology of sex offenders and my behavioral analysis of sexual offenses, especially victimization of children.
19. Since retiring from the FBI, I have continued doing similar work as a private consultant including consulting to the FBI Behavioral Analysis Unit under a contract. In my private consulting work, I have provided analysis and expert testimony in both criminal and civil matters, for prosecutors, plaintiffs, and defendants. In the past several years I have deliberately reduced my travel and consulting workload, but I continue to follow the

literature closely and have remained involved in a number of cases in a consulting role.

### **Scope of Report**

20. To be clear, this report is *not* about the treatment of transgendered persons, nor should it be misconstrued as hostile in any way to the civil rights of the transgendered. My report is instead about the documented behavior patterns of male sex offenders and sexual offenses that *already* take place; the fact that many of them are not reported, investigated, or prosecuted despite the existence of laws criminalizing such conduct; and the ways in which GIBAPs and similar access guidelines will increase the ability of such offenders to escape identification and detection. My report also explains the benefits of laws like North Carolina's HB2 in protecting public safety and privacy, especially that of women and girls.
21. Furthermore, this report is about a consensus view of criminality, not contested views of morality. As I have stated in my presentations and published writings, "Some enter this investigative field to enforce their own moral or religious values. Officers must remember that they are employed to enforce the penal code and not the Ten Commandments. Child molestation and rape are of professional interest to the law enforcement investigator because they are crimes, not because they are sins. A personal code of ethics is an important asset to any investigator; however, personal moral values are the criteria by which the investigator should judge his own behavior and not the behavior of others."

### **Sex Offenders and Sex Offenses**

22. Sexual crimes can involve violent and non-violent acts, contact and non-contact behavior, varying degrees of emotional and physical harm, and a wide variety of sexual and non-sexual motivations. Some victims may not even know or realize they were victimized. There are serious sex offenses, such as murder, torture, and sadistic rape, which are generally dealt with severely by the criminal-justice system. And there are what are sometimes called "nuisance sex offenses," such as indecent exposure and window peeping, which are generally dealt with more lightly by the criminal-justice system. Although often referred to as "nuisance offences," they are obviously more than a nuisance to their victims, on whom such offenses inflict varying degrees of emotional and psychological trauma.
23. There is no graduation ceremony at which criminals must choose to be "regular" criminals or sex offenders, "nuisance" or serious sex offenders, sex offenders against adults or against children, and sex offenders against their own or someone else's children. Offenders often ignore neat categories of criminals and crime.
24. Some sexual acts involve "strict liability" offenses (*i.e.*, an adult engages in vaginal penetration of a child with his erect penis) where the act speaks for itself and there is no need to prove the sexual motivation. Other acts can be determined to be sexual in nature only if one can prove the intent or motivation of the individual perpetrator. Kissing, hugging, and appearing naked in front of a person can be sexual crimes if lewd or lascivious intent can be proven. It is common for sex offenders when interviewed to admit the act but deny the hard-to-prove intent. Photographing children on the playground, tape recording the belching of

boys, or listening to children urinate in a public bathroom can be sexual acts for some individuals, but they are most likely not crimes. If the facility were in a private institution such as a school, the activity might involve criminal trespassing but not be recognized as or considered a sex crime. Whether criminal or not, such acts can be an intrusion into the sexual and bodily privacy of their victims.

25. The repetitive patterns of behavior of many sex offenders involve the less-understood concept of sexual *ritual*. Sexual ritual is a repeated pattern of behavior engaged in by an offender because of a sexual need; that is, in order to become aroused and/or gratified a person must engage in the act in a certain way. Ritual is necessary to the offender but not to the successful commission of the crime. Many sex offenders, as part of sexual ritual, are more likely to commit similar offenses, make need-driven mistakes, and compulsively collect pornography and other offense-related paraphernalia. The offenders' emotional and sexual needs and desires drive their actions, conduct, and behavior. Their behavior is frequently more need-driven than thought-driven. They often engage in planned, repeated, or high-risk attempts to act out their compulsive sexual fantasies, including committing their offenses in public places. They also take advantage of opportunities and are often quick to use new technology. They learn to skillfully lie and manipulate others to gain access to victims and escape responsibility and accountability. Their need-driven behavior often leads them to make high-risk and almost inexplicable mistakes.
26. Defining sexual activity is not as easy as many think. Is a sex crime determined by the motivation for the acts or the specific acts performed? Sexual activity can include diverse behavior involving such things as sadomasochism, bondage, urination, defecation, peeping, audio/video recording, indecent exposure, listening, touching, rubbing, poking, clothing fetishes, and cross-dressing. Seemingly "nonsexual" behavior can be motivated by sexual needs.
27. Obviously not all such behavior is sexual in nature or, even if it is, constitutes a crime. The criminal-justice system must look to the law to determine what a sex offense is and what the statutory elements of the offense are. Some states allow wider latitude in looking at motivation to determine what is a sex crime. Untrained individuals and organizations all too frequently dismiss questionable activity as only "public displays of affection," "boundary violations," or "inappropriate conduct"—when in fact the conduct is criminal.

### **"Nuisance Sex Offenses"**

28. Potential sexual problems with public, multi-user rest rooms, changing areas, and showers are less likely to involve violent sexual assaults (*e.g.*, rape)—although those sometimes occur—and more likely to involve less obvious sexual behavior, often related to "paraphilic disorders." Mental health professionals use the term "paraphilia" to refer to a wide variety of atypical or unusual intense sexual fantasies, urges, and behaviors. Better known and more common paraphilic disorders include exhibitionism (exposure), fetishism (objects), frotteurism (rubbing), pedophilia (acts involving children), sexual masochism (self pain), sexual sadism (partner pain), and voyeurism (looking). Less known and less common paraphilic disorders include scatologia (talk), necrophilia (corpses), partialism (body parts), zoophilia (animals),

coprophilia (feces), klismaphilia (enemas), urophilia (urine), infantilism (baby-related behaviors), hebephilia (acts involving female youth), and ephebophilia (acts involving male youth) and many others.

29. As previously noted, sexual behavior related to paraphilic sometimes results in what law enforcement refers to as “nuisance” (*i.e.*, high volume, low physical harm) sex offenses—but which can inflict psychological and emotional trauma on their victims. Many of these sex offenses take place in public areas where preferred and vulnerable victims are easily found. An issue in such sex offense investigations is often the possibility of progression to more serious offenses. Some nuisance sex offenders progress little over the years in their criminal sexual behavior. Some progress to more serious sex crimes and some move back and forth. In addition, depending on such things as social and economic status, some “nuisance” sex offenders might be more likely to resort to violence to avoid identification.

30. Such “nuisance” cases are usually given a low investigative priority and not solved because

- Most incidents are not reported to law enforcement.
- The sexual nature is often not recognized.
- When they are reported they are either not recorded or recorded in a way that makes retrieval difficult.
- Little, if any, manpower and resources are committed to the investigation.
- Law-enforcement agencies frequently do not communicate and cooperate with each other concerning these cases.
- The specific crimes often involve comparatively minor and hard to prove violations of the law.

Although these cases are often given a low investigative priority, they should be taken seriously, as they can inflict psychological and emotional damage upon their victims.

31. As mentioned, sexual activity involving things such as rubbing, peeping, exposure, urination, and defecation is bizarre and repulsive for most to contemplate and discuss. Many are not aware that such behavior could even be sexual in nature. Society struggles to pass laws to deal with behavior it is not prepared to admit goes on. It is hard to pass laws to define, enforce, track, and count such questionable and distasteful behavior. It is these types of sex offenses that are most likely to increase as a result of expanded access to previously gender-isolated public facilities, whether as a result of an express policy or GIBAP, or as a result of changing social norms.

32. The risk that allowing biological males into facilities reserved for women and girls is real, and is illustrated by behavior already engaged in by some male sex offenders in facilities reserved for men. In my career, I have been involved in cases in which male sex offenders:

- Went into male public restrooms with a video camera hidden in a bag to surreptitiously record partially dressed and urinating boys
- Arranged to meet male partners, including children, in the male public restroom to engage in sexual activity
- Went into male restrooms to get sexually aroused from the sound of males urinating

- Used "horseplay" in male locker rooms and showers as part of their grooming of male victims
- Touched and rubbed males napping at male athletic facilities
- Set up cameras in dressing rooms to record people changing clothing
- Stole women's or children's underwear from locker rooms
- Joined youth-serving organizations to use showers, restrooms, and sleeping arrangements to groom and sexually victimize boys
- Exposed their genitals for sexual gratification in male athletic facilities

33. Most of the above-described activity was learned not from reports of this activity to law enforcement, but from corroborative evidence seized from offenders during investigations into other criminal activity. If women's facilities become available to heterosexual males who merely claim or pretend to be transgender, I would reasonably expect similar sexual offenses to occur in those facilities as well.

### **Normal but Immature Males**

34. Even ignoring sex offenders, we as a society have traditionally and typically separated people by sex in certain sensitive situations (e.g., rest rooms, dressing rooms, locker rooms, showers, and sleeping arrangements). These situations are clearly sensitive for many pubescent individuals and are the reason sex separation rules have traditionally been applied to Multi-Occupant Public Facilities. To help establish social customs and limit inappropriate behavior, application to young prepubescent children is also common.
35. These rules and social customs are not only because of potential deviant or criminal abuses, but also due to the "normal" sexual interest and attraction of the vast majority of society. For example, some adolescent high school boys or college males (who are not abnormal or sexual predators) might want to get into the girls' locker room. They may or may not realize that such activity is illegal, and they may or may not consider its effect on victims. The raging hormones and immaturity of young males drive the activity.
36. This interest is reflected in modern media. Movies particularly targeted at young males often have scenes focusing on males finding clever ways to observe females in various stages of undress in restrooms, locker rooms, and dorm rooms because these types of behaviors occur in real life. This is fiction based on reality. Co-educational schools, swimming pools, summer camps, and similar facilities have never been eager to gather or publicize data on the frequency with which such behavior is reported internally, but the phenomena are well known to those who operate such facilities and to those who have perpetrated or been victimized by such activity.
37. For these reasons, changes in access policies made to accommodate a very small minority of society ignore the reality of the sex drive of a very large majority. Allowing a man to use woman's rest room, locker room, dressing room, shower, or dormitory room simply because he says he *feels* like a woman would seem to be reckless, to ignore thousands of years of human experience, and to ignore potential criminal activity.

## Opinions

### **1. Sexual Offenses In and Around Multi-User Public Facilities Would Likely Increase as a Result of GIBAPs or Similar Social Customs**

38. As someone with over forty years experience investigating, consulting about, studying, and teaching about sex crimes and sex offenders, I have been following the debate regarding revised access to Multi-occupant Public Facilities for some time. I observed the polarizing emotion that dominated much of the discourse (discrimination/hate vs. enabling sexual predators) and the lack of clear and consistent definitions of terms.
39. I am aware that many advocates for new access guidelines based on gender identity argue that the claimed fear of GIBAP opponents--of male sexual predators now entering women's or girl's rest rooms--is absurd or blown out of proportion. They sometimes follow up this argument with the claim no transgendered person has sexually assaulted someone in a restroom or changing facility. But the problem with potential sex offenses is not crimes by transgendered persons. The problem, rather, is offenses by males who are not really transgendered but who would exploit the entirely subjective provisions of a GIBAP—or even changed social norms about facility access-- to facilitate their sexual behavior or offenses. A list of recent media-reported incidents of this nature is attached as Exhibit C.
40. As an example, the NY Times reported on 7/14/16 that a "transgender woman" was charged with secretly taking pictures of an 18-year-old woman changing in a Target fitting room. The national retail chain had announced in April that it would allow customers to use the restroom or fitting room corresponding to their gender identity. The suspect told a detective that he (or she) had made videos in the past of women undressing for the "same reason men go online to look at pornography." This admission makes clear that the suspect acted for sexual gratification, thereby satisfying that element of a peeping sex crime.
41. Most of those dismissing the possibility of the access guidelines being exploited by sex offenders neither define "sexual assault" nor consider the wide diversity of sexual behavior engaged in by sex offenders. Much of it is too repulsive to openly discuss. They certainly do not want to hear graphic details of sexually motivated public lewdness, surreptitious filming, or listening to people urinate or defecate—even though these are all significant violations of the victims' privacy, at a minimum.
42. Those dismissing the possibility of GIBAPs being exploited by sex offenders also overlook the reality that many serious sex offenses are not committed in an overt and violent manner by individuals fitting common stereotypes. Referring to all sex offenders as "sexually violent predators" fuels inaccurate stereotypes and denies the diversity of such offenders. Looking for "evil sexual predators" can hinder recognizing many serious sex offenders. Many such offenders seem to be nice guys because, in other respects, they are nice guys.
43. Although I cannot precisely quantify it, based on my more than 40 years of studying sex offender behavior, I know that males have for a long time repeatedly used male rest rooms and other similar facilities (e.g., YMCA, athletic clubs) to sexually interact (contact & non-

contact behavior) with male partners and victims. Since most male sex offenders against adults prefer female victims, the problem until now was somewhat limited and dealt with on a case-by-case basis. A few male (non-transgendered) sex offenders have even dressed as females to facilitate their crimes. I am aware of some unlucky few who were so identified.

44. The risk of these and other behaviors will be substantially higher if GIBAPs or similar social conventions are adopted. In my opinion, allowing a man, based only on his claim to be transgendered woman, to have unlimited access to women's rest rooms, locker rooms, changing rooms, showers, etc. will make it easier for the type of sex offense behavior previously described to happen to more women and children. Such access would create an additional risk for potential victims in a previously protected setting and a new defense for a wide variety of sexual victimization, especially so-called nuisance sex offenses related to compulsive paraphilic disorders.
45. One reason for this conclusion is the fact that some sex offenders take advantage of the types of behavior (e.g., adding, removing, changing clothing) that typically occur in Multi-Occupant Public Facilities. Although sex separation in such Multi-Occupant Public Facilities often focuses on individuals who are pubescent, by definition, pedophiles are adults with a preference for prepubescent children. Child molesters, in particular, often work toward situations in which the target child has to change clothing, spend the night, or both. Such situations are described in my presentations and publications as "high-risk." If the child molester achieves either of these two objectives, the success of the seduction is almost assured. The objective of changing clothes can be accomplished by such ploys as squirting with the garden hose, turning up the heat in the house, exercising, taking a bath or shower, physical examination of the child, or swimming in a pool.
46. Such activity can be part of the grooming process to lower inhibitions as well as placing a focus on sexual activity. By itself, grooming activity can sometimes also provide sexual gratification for the adult. In addition, the goal of the grooming is not always to eventually engage in sexual intercourse with a child. Some offenders are content with or even prefer other types of sexual activity (e.g., paraphilias). Touching that might be foreplay (fondling) for most offenders can be the ultimate objective for some offenders (e.g., those with a preference for frotteurism).
47. As the term indicates, multi-user public facilities are *public*. While violent sexual assaults are possible in such facilities, the ruse of falsely claiming to be a transgendered person would be less useful to a violent rapist attempting to escape prosecution.
48. GIBAPs are more likely to be exploited by sex offenders in order to act out their paraphilic disorders and by immature males who consider it fun to look at naked girls and women or to expose themselves to girls and women in these settings. They will use the cover of gender-identity-based rules or conventions to engage in peeping, indecent exposure, and other offenses and behaviors in which the connection to sex is less obvious.
49. I recognize that many of the behaviors involved in so-called "nuisance" sex offenses may already be against the law but they are typically a low investigative priority and difficult to

identify and prove in court. As they have been for over a hundred years, such crimes are now at least limited to some degree by restricted access to women and girls in certain vulnerable situations, especially bathroom, locker room and shower facilities. The kinds of access now being demanded by those seeking to adopt GIBAPs or encourage similar social customs would, to some extent, decriminalize some of these crimes (*e.g.*, peeping indecent exposure, and lewd and lascivious conduct) by making it even harder to prove intent. Sex offenders are often good at effectively using deception, trickery, and ruses to facilitate their sexual activity.

50. For example, the enactment of GIBAPs or the adoption of similar social customs makes it even more difficult to catch those who would otherwise be clearly violating laws prohibiting indecent exposure or peeping. Under such policies, the very real victims of such conduct—women deliberately exposed to the male genitals of an exhibitionist, for example—would be forced to consider whether the exposure was merely the innocent or inadvertent act of a transgendered individual. Moreover, because GIBAPs and similar social conventions link facility access to self-reported gender *identity*, a victim may be unwilling to report an exhibitionist appearing to be a male for fear of being accused of bigotry or gender identity discrimination. As a result, reporting of public-facility sex crimes is likely to *decrease* as a result of GIBAPs and similar social conventions, even as the actual number of offenses *increases*.
51. I am already aware of male sex offenders who have dressed as women only to reduce suspicion when touching and rubbing against women in crowded public places for sexual gratification (*i.e.*, frotteurism). In addition, as mentioned, some so-called “nuisance” sex offenders progress to more violent activity or become violent to avoid identification and discovery. One problem in evaluating escalation of such sexual behavior is the fact that cases an investigator believes are the first, second, and third, may actually be the tenth, sixteenth, and twenty-second.
52. It is also my opinion that if these new guidelines and social customs become more widespread and well known, the risk of such sex offenses will increase.

## **2. Current Laws Will Have Limited Effect in Preventing This Increase**

53. Current laws are not up to the task of preventing or prosecuting many of the sex offenses—especially so-called “nuisance” offenses—that will likely result from adoption of a GIDAP or even a similar social convention allowing biological men access to women’s facilities. For example, sex offenses that require proof of the defendant’s intent can be difficult to investigate and prosecute. As stated, in my experience, sex offenders charged with such offenses routinely admit committing the act, but deny that they had the requisite intent.
54. Moreover, sex offenses that require proof of intent are also often extremely difficult to detect. Many victims of such crimes may not ever learn that a sex offender targeted them. Or they may realize they have been targeted only later, after reflecting on a particular interaction with someone they encountered in a women-only facility. And it is then that the victim may feel the emotional and psychological sensation of realizing that sexual privacy was violated.

55. For a variety of reasons, the vast majority of peeping and indecent exposure offenses appear to go unreported. In my experience, few of those reported are aggressively investigated by police and fewer still are aggressively prosecuted. Therefore, it is a mistake to believe that existing laws are sufficient to the task in the context of GIBAPs and similar social customs – they are barely up to the job *without* the presence of such policies that provides a new defense for anyone caught and reported for these crimes in such facilities.
56. Claims that existing laws are sufficient to address abuse of GIBAPs and similar social customs by male sex offenders are particularly weak, because the specific types of illegal conduct most likely to be encouraged by the policies are intent-based offenses. The weaknesses of existing law enforcement will be magnified substantially with the implementation of a GIBAP or with more permissible social customs about use of women's facilities by biological males who simply identify themselves as women.
57. The North Carolina statutes governing indecent exposure, voyeurism, and trespassing are typical illustrations of why existing laws will have limited effect in protecting victims. Although I am not a lawyer, I believe a practical analysis of how these and similar statutes operate in the real world reveals the problem
58. North Carolina General Statutes Section 14-190.9 defines indecent exposure as an individual “*willfully expos[ing]* the private parts of his or her person in any public place and in the presence of any other person or persons, except for those places designated for a public purpose where the same sex exposure is incidental to a permitted activity” (emphasis added). Other parts of the statute mention “for the purpose of arousing or gratifying sexual desire.” The three key elements of willfulness, private parts, and sexual desire all clearly indicate the need to prove deliberate sexual activity. This can be difficult to prove in any case but much harder to prove when the suspect in question has apparently valid non-sexual reasons to be using the facility and for his private parts to be exposed--by claiming to be a transgendered woman.
59. Similarly, liability under North Carolina’s voyeurism statute, North Carolina General Statutes Section 14-202, depends on whether the person “secretly” peeped, and more serious video/photographic voyeurism offenses require that the perpetrator engage in the activity “for the purpose of arousing or gratifying the sexual desire of any person.” The statute requires secret activity and proving sexual intent. Again, these hard-to-prove elements are even harder to prove against someone allegedly rightfully in and using the location.
60. Liability under North Carolina’s trespassing statute, North Carolina General Statutes Section 14-159.12, also depends on a person’s being in a location “without authorization.” The typical GIBAP guidelines provide that authorization, thereby allowing any male to gain legal access to a women-only facility simply by claiming to be transgendered.
61. Even without new governmental GIBAP guidelines, changing social customs concerning access to Multi-occupant Public Facilities will make it harder to prevent, identify, and prosecute sex offenses involving North Carolina indecent exposure, voyeurism, and trespassing statutes.

62. Under such statutes, sexual intent can sometimes be proven by committing significant investigative resources (search warrants, background investigation, linkage analysis, etc.) that are rarely committed to such “nuisance” cases. In the absence of extreme aggravating circumstances and evidence of repeated acts, such cases are often not aggressively investigated or prosecuted.
63. The personal safety and well-being of additional women and children should not be placed at increased risk based only on the uncorroborated or unverified gender identity claims of a group of individuals seeking to use gender restricted public facilities. While many would be making legitimate claims, the pool would also likely include male sex offenders known to use deceit to engage in need-driven, high-risk criminal behavior and immature males seeking cheap thrills with little regard for the effect on victims. More than 40 years of study have taught me that sex offenders lie about their intent and behavior. Those who take them at their word are at increased risk of victimization and having to deal with the consequences.

### **3. Public Safety Value of HB2**

64. These observations also establish the importance and value of laws like HB2 in protecting safety and privacy, especially of women and girls. In that regard, one of the great strengths of Part I of HB2 is its clear definition of when someone who is born a man can legally be treated as a woman and, therefore, permitted to use a facility reserved for women and girls. As a result of my experience doing training, research, and case consultation, I have come to appreciate the importance of definitions and their consistent use. Seeming disagreements and differences of opinion are often the result of confusion over definitions. In written and spoken communication definitions are crucial to understanding. Although many recognize the importance of definitions, a major problem is the fact that many terms do not have one universally accepted definition. Legal definitions may not be the same as societal attitudes. An important point, then, is not that these terms have or should have only one definition, but people using the terms should communicate their definitions, whatever they might be, and then **consistently** use those definitions. In legal applications where there are significant consequences for their use, definitions are especially important.
65. Part I of HB2 is of significant value in addressing the issues discussed above in large part because it contains an objective standard for who is and is not legally transgendered and who is and is not allowed to use facilities designated for women and girls. This is of significant value to law enforcement personnel, facilities managers, and others who may be in a position to enforce laws that protect against such sex offenses and privacy violations as peeping and indecent exposure.
66. The media often emotionally refers to a law like HB2 as an example of discrimination/hate against transgendered individuals. They tend to use examples of children, whose outward appearance is other than their birth sex, traumatized by being forced to use inappropriate facilities. They ask how a child appearing to be a female can be made to use a male facility. They rarely point out that for purposes of a GIBAP, dressing as or appearing to be one's preferred sex is actually irrelevant. The functional definition of a *transgendered*

person, under the position advocated by many advocates of transgender rights, is simply an internal feeling or “sense.”

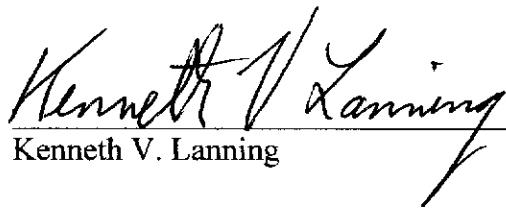
67. Under GIBPAPs such as the 2015 Charlotte Ordinance or the most recent guidelines from the Departments of Justice and Education, there are no objective, independent criteria (e.g., documented diagnosis from therapist, doctor; legally changed birth certificate) for being transgendered. Therefore, these new “guidelines” functionally mean that an organization can no longer have restrooms or locker rooms separately designated for only traditional *males* or *females*. Since being transgendered is not being objectively defined, it has little, if anything, to do with the access issue. If this reality were stated more accurately and clearly (i.e., “You can no longer have separate facilities for males and females” instead of “You can no longer discriminate against bullied transgendered individuals”), the response of most might be different.
68. Athletic organizations have struggled with this for a long time, and have generally gravitated toward some objective definition of who will be considered transgender. Some school districts now use a subjective definition of gender for bathroom and locker room access but use a more objective physical/biological definition of gender for athletic competition.
69. The Department of Defense uses an objective definition of who may be considered to have changed from one sex to another. As I understand their regulations, the Department states that a history of gender dysphoria is disqualifying for military service, **unless**, as certified by a licensed medical provider, the applicant has been stable without clinically significant distress or impairment in social, occupational, or other important areas of functioning for 18 months. Again, this is an objective definition that provides a measure of certainty to those who must make these critical determinations.
70. The State Department also uses an objective standard for determining when a person may change his or her sex on a passport. The State Department requires a statement from an attending physician stating that that he or she has a doctor/patient relationship with the subject, and stating that the subject has completed or is in process of appropriate clinical treatment for gender transition. This is very different from the subjective standard in the Charlotte Ordinance, and in the Department of Justice/Education guidelines, which allow people to use female-only facilities based solely on their subjective “internal sense” of gender identity.
71. The NCAA also uses an objective standard for determining when someone born as a male wishes to play on a female sports team. The NCAA standard states that a trans female student-athlete may compete on a female team only if the athlete obtains a doctor’s certification of the subject’s intention to transition to a woman, and that hormone therapy has actually begun. By providing an objective standard for determining who will be recognized as having transitioned from a man to a woman, Part I of HB2 is similar in principle to the NCAA standard.
72. The same is true of the Olympic standard for determining whether someone born as a male will be allowed to compete in women’s events. The Olympics require that male-to-female

transgender athletes demonstrate that their testosterone level has been below a certain cutoff point for at least one year before their first competition.

73. The Department of Defense, the State Department, the NCAA, and the Olympics are examples of organizations that have recognized the need for their specific purposes to have some objective standards for recognizing a gender transition beyond simply an internal feeling.
74. Such objective standards are also important to effective law enforcement. Law enforcement officers and prosecutors will be less likely to record, investigate, or charge indecent exposure or peeping offenses in a GIBAP environment, because there is no objective standard for determining whether someone born a male can lawfully be present in a women-only facility. It would be more difficult to prove lascivious intent when self-reported gender identity drives access rights, and easier to accuse law enforcement personnel of discrimination. This is made even more difficult when that self-reporting need not be corroborated in any way whatsoever.
75. The common sense objective criterion established by Part I of HB2 provides deterrence for false claims and makes it easier to report, investigate, and prosecute cases. This criterion preserves the current status quo for “nuisance” sex offenses.
76. In my opinion, clear and objective criteria for being transgender as established by Part I of HB2 eliminate almost all the potential increased sex crime problems associated either with GIBAPs adopted by state agencies and school systems or changing social customs toward transgender individuals’ access to public facilities.
77. HB2 provides such a definition and sends a clear message to society about what is unlawful and should be reported to law enforcement. It is necessary for victims to know when they are victims. It is also useful and necessary for witnesses and law enforcement to know who is and who is not legally authorized to use public facilities designated for women and girls.
78. By providing a clear objective criterion, Part I of HB2 makes it more difficult for male sex offenders, regardless of their gender identity, to access female victims in public facilities without detection, and preserves the ability to report, investigate, and prosecute those offenses.
79. Part I of HB2 also sends a clear message to society about what is unlawful in public facilities designated for women and girls and what kinds of activities should be reported to law enforcement officials.
80. By reducing the opportunities for so-called “nuisance” sex offenses, HB2 and similar policies protect the legitimate privacy and safety concerns of women and girls.

I reserve the right to supplement or amend as additional statements, facts or information are received. My opinion is not based on any fees paid. My fees include review, preparation, deposition, and trial testimony and at \$350.00 per hour.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

  
\_\_\_\_\_  
Kenneth V. Lanning

## EXHIBIT A

**Exhibit A: Documents Reviewed by Kenneth V. Lanning**

1. North Carolina Statute HB2
2. Carcaño Amended Complaint
3. Carcaño Complaint
4. Dear Colleague Letter (May 13, 2016)
5. DOJ Complaint (May 9, 2016)
6. Copies of North Carolina Statutes on Indecent Exposure, Peeping, and Trespassing
7. Amicus Brief of States in support of USA, Texas v. US
8. Copies of Department of Defense, NCAA, and State Department Policies on Transgender Individuals
9. List of Media Reported Incidents including separate reports on Target Incident in Idaho
10. Expert Report of Aran C. Mull

## **EXHIBIT B**

## **Exhibit B: Curriculum Vitae of Kenneth V. Lanning**

August 11, 2016

### **KENNETH V. LANNING**

#### **EMPLOYMENT**

Consultant, Park Dietz & Associates, Inc., Newport Beach, California (2000-Present)

CAC Consultants, Fredericksburg, Virginia (2000-Present)

Special Agent with the Federal Bureau of Investigation (1970-2000):

- National Center for the Analysis of Violent Crime, FBI Academy, Quantico, Virginia, October 1998 to September 2000
- FBI representative to the Missing and Exploited Children Task Force, Quantico, Virginia, April 1996 to October 1998
- "Behavioral Science Unit," FBI Academy, Quantico, Virginia, January 1981 to April 1996
- Field investigative experience in St. Louis, San Antonio, and Los Angeles Field Divisions of the FBI (1970-1980)

Explosive Ordnance Disposal Officer and Scuba Diver, U.S. Navy (1966-1970)

#### **EDUCATION**

M.S. (Administration of Justice) California Lutheran College, Thousand Oaks, California (1978-1980)

Completed class work for Masters Degree (Criminal Justice) from Sam Houston State University, Huntsville, Texas (1975-1978)

B.B.A. (Accounting) Manhattan College, Bronx, New York (1962-1966)

#### **SPECIALIZED TRAINING**

##### **FBI In-Service Training:**

Basic Sex Crime Instructor (1973)

Crime Resistance (1977)

Advanced Sex Crime Instructor (1978)

Sexual Exploitation of Children (1979) (1983) (1984) (1985) (1987) (1988)

Criminal Profiling and Crime Analysis (1981)

Child Abuse and Family Violence (1985)

Interstate Transportation of Obscene Material (1988)  
Crimes against Children (1989)  
Non-Traditionally Motivated Child Abduction Workshop (1989)  
Child Abduction Seminar (1990)  
Child Exploitation and Obscenity Investigation Seminar (1995)  
Child Abduction Response Plan Conference (1996)  
Crimes against Children Coordinators (1997)

**Other Training:**

"Crime Prevention"  
Texas Crime Prevention Institute  
Southwest Texas State University  
San Marcos, Texas (1976)

"FBI National Academy"  
United States Department of Justice  
Quantico, Virginia (1979)

"Child Sexual Abuse"  
Forensic Mental Health Associates  
Washington, D.C. (1982)

"Law Enforcement and Child Sexual Abuse"  
St. Joseph College Institute for the Treatment and Control of Child Sexual Abuse  
Hartford, Connecticut (1982)

"Sexual Victimization of Children"  
Children's Hospital National Medical Center  
Washington, D.C. (1982) (1984) (1986)

"National Law Enforcement Seminar on the Sexual Exploitation of Children"  
FBI Academy  
Quantico, Virginia (1983)

"Medical Assessment and Treatment of Sex Offenders"  
The Johns Hopkins University School of Medicine  
Baltimore, Maryland (1983) (1985)

"National Symposium on Sexual Assault"  
FBI Academy  
Quantico, Virginia (1984)

"National Conference on Ritualistic Sexual Abuse of Children"  
FBI Academy  
Quantico, Virginia (1985)

"National Advanced Law Enforcement Seminar on the Sexual Exploitation of Children"  
FBI Academy  
Quantico, Virginia (1987)

"The Emergence of Ritualistic Crime in America"  
Richmond, Virginia (1987)

"National Symposium on Child Sexual Abuse"  
Huntsville, Alabama (1987 to 1998) (2000) (2004 to 2009)

"The Annual Child Abuse and Neglect Symposium"  
C. Henry Kempe National Center  
Keystone, Colorado (1989) (1997)

"The San Diego International Conference on Child and Family Maltreatment"  
Children's Hospital Center for Child Protection  
San Diego, California (1993 to 1998) (2001) (2003) (2008) (2009) (2011)

"APSAC Annual National Colloquium" (1993) (1994) (1996 to 1999) (2001)

"Annual Crimes against Children Conference"  
Dallas, Texas (1989) (1993) (1996-2002) (2008-2010) (2013) (2015)

"Recovery and Reunification of Abducted Children"  
Public Administration Service/Washoe County M/CAP Team  
Reno, Nevada (1995)

"Advanced Investigation of Missing and Exploited Children"  
Training for Morgan P. Hardiman Task Force (6 wks)  
Quantico, Virginia (1996)

"Statement Analysis Workshop"  
U.S. Treasury Department, IRS Internal Security  
Quantico, Virginia (1996)

"Internet Safety Forum"  
Cyber Crimes Seminar  
Arlington, Virginia (1998)

"Sixth Annual Children's Justice Conference"  
Washington State Department of Social & Health Services  
Seattle, Washington (1998)

"Violence Risk Assessment"

John Monahan, Ph.D., University of Virginia School of Law  
Quantico, Virginia (1998)

"Psychopathy and Crime"

Robert D. Hare, Ph.D., University of British Columbia  
Quantico, Virginia (1999)

"Assessing and Treating Sex Offenders"

Gene Abel, M.D. and Fred Berlin, M.D.  
Chicago, Illinois (1999)

"Forensic Psychiatry"

Park E. Dietz, M.D.  
Quantico, Virginia (1999)

"Neuro-Psychiatry"

Richard M. Restak, M.D.  
Quantico, Virginia (1999)

"The Reid Technique of Interviewing and Interrogation"

John E. Reid & Associates, Inc.  
Quantico, Virginia (2000)

"Psychopathy Checklist Training"

Robert D. Hare, Ph.D. and Adelle E. Forth, Ph.D.  
Quantico, Virginia (2007)

## **RESEARCH PROJECTS**

Criminal Personality Research Program  
Funded by National Institute of Justice  
U.S. Department Justice

Use of Children in Pornography  
Funded by National Center on Child Abuse and Neglect  
U.S. Department of Health and Human Services

Linkage of Sexual Abuse, Exploitation and Violence  
Funded by Office of Juvenile Justice and Delinquency Prevention  
U.S. Department of Justice

Advisory Staff  
U.S. Attorney General's Commission on Pornography  
U.S. Department of Justice (1986)

Project Manager  
Serial Child Molester and Abductor Research Project  
Funded by Office of Juvenile Justice and Delinquency Prevention  
U.S. Department of Justice

Program Manager  
Abductors Who Murder and Kidnappers of Newborn Infants Program  
Funded by Office of Juvenile Justice and Delinquency Prevention  
U.S. Department of Justice

Research Advisory Board and then Working Group of the FBI National Center for the Analysis of Violent Crime (NCAVC) (2001 to 2010)

Principal Researcher:  
Child Abduction/Homicide  
Child Abduction Epidemiology  
False Allegations of Child Abduction  
Infant Abduction  
Innocent Images Case Review  
Ongoing FBI Research Projects  
National Center for the Analysis of Violent Crime

## PUBLICATIONS

"Autoerotic Fatalities" (contributing author)  
Lexington Books, D.C. Heath and Company  
Lexington, MA (1983)

"Pedophile Collectors"  
Chapter in *Child Pornography and Sex Rings*  
Lexington Books, D.C. Heath and Company  
Lexington, MA (1984)

"Child Pornography and Sex Rings" (co-author)  
Article for *FBI Law Enforcement Bulletin*  
January 1984  
(Reprinted in *Victoria Police Association Journal*, February 1985)

"Child Molesters: A Behavioral Analysis"  
Monograph Published by National Center for Missing & Exploited Children  
(1986) (1987, 2<sup>nd</sup> Ed) (1992, 3<sup>rd</sup> Ed) (2001, 4<sup>th</sup> Ed) (2010, 5<sup>th</sup> Ed)

*The Sexual Exploitation of Children* (contributing author)  
Elsevier Science Publishing  
New York, N.Y. (1986)

"Child Molesters: A Behavioral Analysis for Law Enforcement"  
Chapter in *Practical Aspects of Rape Investigation*,  
Elsevier Science Publishing, New York, N.Y. (1987)

"The Maligned Investigator of Criminal Sexuality" (co-author)  
Article for *FBI Law Enforcement Bulletin*, (September 1988)

"Satanic, Occult, Ritualistic Crime: A Law Enforcement Perspective"  
Article for *The Police Chief*  
October 1989  
(Reprinted in *Roundtable* 1990)

"Child Pornography"  
Chapter in *Pornography: Research Advances and Policy Considerations*  
Lawrence Erlbaum Associates Publishers  
Hillsdale, N.J. (1989)

"Child Sex Rings: A Behavioral Analysis"  
Monograph Published by National Center for Missing & Exploited Children (1989)  
(1992, 2<sup>nd</sup> Ed)

"Child Molesters Who Abduct" (co-author)  
Article in *Violence and Victims* (1991)

"Ritual Abuse: A Law Enforcement View or Perspective"  
Commentary in *Child Abuse and Neglect, The International Journal*  
(1991)

"Satanic, Occult, Ritualistic Crime: A Law Enforcement Perspective"  
Article for *Homicide Investigators Journal*  
Spring, 1992  
(Reprinted in Australian Criminal *Intelligence Digest*, January 1994)

"A Law Enforcement Perspective on Allegations of Ritual Abuse"  
Chapter in *Out of Darkness*  
Lexington Books  
New York, N.Y. (1992)

"Investigator's Guide to Allegations of 'Ritual' Abuse"  
Monograph Published by U.S. Department of Justice  
(1992)

*Crime Classification Manual* (contributing author)  
Lexington Books  
New York, N.Y. (1992)

"Sexual Homicide of Children"  
Article in *The APSAC Advisor*  
Vol 7, No 4 (Winter 1994)

"Satanic Ritual Abuse of Children is Not Widespread"  
Chapter in *Child Abuse: Opposing Viewpoints*  
Greenhaven Press Inc.  
San Diego, California (1994)

"Child Molesters Who Abduct" (author and co-editor)  
Monograph Published by National Center for Missing & Exploited Children (1995)

"An Analysis of Infant Abductions"  
Monograph Published by National Center for Missing & Exploited Children (1995)  
(2003, 2<sup>nd</sup> Ed)

"Child Molesters: A Behavioral Analysis For Law Enforcement"  
Chapter in *Practical Aspects of Rape Investigation*,  
CRC Press  
Boca Raton, Florida (1995, 2<sup>nd</sup> Ed)

"Collateral Materials and Sexual Crimes" (co-author)  
Chapter in *Practical Aspects of Rape Investigation*  
CRC Press  
Boca Raton, Florida (1995, 2<sup>nd</sup> Ed)

"Criminal Investigation of Sexual Victimization of Children"  
Chapter in *The APSAC Handbook on Child Maltreatment*  
Sage Publications  
Thousand Oaks, Ca (1996)

"The Witch Hunt, the Backlash, and Professionalism"  
Article in *The APSAC Advisor*  
Vol 9, No 4 (Winter 1996)

"Law Enforcement Response to Child Abuse" (co-author)  
Portable Guide Series Published by U.S. Department of Justice  
(1997)

"Understanding and Investigating Child Sexual Exploitation" (co-author)  
Portable Guide Series Published by U.S. Department of Justice  
(1997)

"Cyber 'Pedophiles': A Behavioral Perspective"  
Article in *The APSAC Advisor*  
Vol 11, No 4 (Winter 1998)

"Use of Computers in the Sexual Exploitation of Children" (co-author)  
Portable Guide Series Published by U.S. Department of Justice  
(1999)

"Sexual Exploitation of Children in the USA: An Overview"  
Article in *The Link* (International Society for Prevention of Child Abuse and Neglect)  
Vol 8, No 2 (1999)

"Investigating Potential Child Abduction Cases" (co-author)  
Article for *FBI Law Enforcement Bulletin*  
April 2001

"The Maligned Investigator of Criminal Sexuality" (co-author)  
Chapter in *Practical Aspects of Rape Investigation*  
CRC Press  
Boca Raton, Florida (2001, 3<sup>rd</sup> Ed)

"Collateral Materials and Sexual Crimes" (co-author)  
Chapter in *Practical Aspects of Rape Investigation*  
CRC Press  
Boca Raton, Florida (2001, 3<sup>rd</sup> Ed)

"Child Molesters and Cyber Pedophiles-A Behavioral Perspective"  
Chapter in *Practical Aspects of Rape Investigation*  
CRC Press  
Boca Raton, Florida (2001, 3<sup>rd</sup> Ed)

"Criminal Investigation of Sexual Victimization of Children"  
Chapter in *The APSAC Handbook on Child Maltreatment*  
Sage Publications  
Thousand Oaks, Ca (2002, 2<sup>nd</sup> Ed)

"Cyber Pedophiles: A Behavioral Perspective"  
Chapter in *Prosecuting Online Child Exploitation Cases*  
US Department of Justice (2002)

"A Law Enforcement Perspective on the Compliant Child Victim"  
Article in *The APSAC Advisor*  
Vol 14, No 2 (Spring 2002)

"The Compliant Child Victim"  
Guest Co-editor for Special Issue of *The APSAC Advisor*  
Vol 14, No 2 (Spring 2002)

"Acquaintance Child Molesters: A Behavioral Analysis"  
Chapter in *Medical, Legal, & Social Science Aspects of Child Sexual Exploitation*  
G.W. Medical Publishing, Inc.  
St. Louis, Missouri (2005)

"Compliant Child Victim: Confronting an Uncomfortable Reality"  
Chapter in *Viewing Child Pornography on the Internet*  
Russell House Publishing  
Dorset, United Kingdom (2005)

"Collateral Materials and Sexual Crimes" (co-author)  
Chapter in *Practical Aspects of Rape Investigation*  
CRC Press  
Boca Raton, Florida (2009, 4<sup>th</sup> Ed)

"Cyber 'Pedophiles': A Behavioral Perspective"  
Chapter in *Practical Aspects of Rape Investigation*  
CRC Press  
Boca Raton, Florida (2009, 4<sup>th</sup> Ed)

"Cyber 'Pedophiles': A Behavioral Perspective"  
Chapter in *Serial Offenders: Theory and Practice*  
Jones & Bartlett Learning  
Sudbury, Massachusetts (2012)

"Twenty-five Years of APSAC: A Personal, Law Enforcement Perspective"  
Article in *The APSAC Advisor*  
Vol 24, No 1 & 2 (Winter/Spring 2012)

"Acquaintance Child Molesters and Youth-Serving Organizations"  
Article in *Journal of Interpersonal Violence*  
Vol 29, No 15 (October 2014)

"A Commentary from A Law Enforcement Perspective on 'The Witch-Hunt Narrative' by Ross E. Cheit"  
Article Accepted for Publication in *Journal of Interpersonal Violence*  
(Late 2016)

"Collateral Materials and Sexual Crimes" (co-author)  
Chapter accepted in *Practical Aspects of Rape Investigation*  
CRC Press  
Boca Raton, Florida (2016, 5<sup>th</sup> Ed)

"Sexual Victimization of Children: Rape or Molestation"  
Chapter accepted in *Practical Aspects of Rape Investigation*  
CRC Press  
Boca Raton, Florida (2016, 5<sup>th</sup> Ed)

"Child Molesters Who Abduct: A Behavioral Analysis" (co-author)  
Chapter submitted and accepted for new book on Forensic Investigation  
(2017)

## **CHILD MOLESTER TYPOLOGY and SEX OFFENDER CONTINUUM**

### **Published or Set Forth in the Following:**

*Child Molesters: A Behavioral Analysis*

Published by National Center for Missing & Exploited Children (1986, 1987, 1992, 2001)  
(Over 205,000 copies distributed)

*The Sexual Exploitation of Children* by Seth Goldstein

CRC Press, Boca Raton, FL (1986, 1998)

*Sexual Exploitation of the Child*

Center for Urban Policy, Loyola University of Chicago (1986)

*Practical Aspects of Rape Investigation* by Robert R. Hazelwood

CRC Press, Boca Raton, Florida (1987, 1995, 2001)

*Camp Director's Guide: Preventing Sexual Exploitation of Children*

Published by National Center for Missing & Exploited Children and American Camping Association (1988)

*Violence against Children: Investigator's Desk Manual*

Office of Pennsylvania Attorney General (1989)

*Screening for Pedophiles in Youth-Oriented Community Agencies*

by Arlene McCormack and Marialena Selvaggio

*Social Casework: The Journal of Contemporary Social Work*, Jan 1989, Vol. 70, No.1

*On Trial* by Judge Charles B. Schudson

Beacon Press, Boston, MA (1991)

*Child Molesters: A Behavioral Analysis*

*School Safety*, Spring 1994

National School Safety Center Newsjournal

*Child Molesters Who Abduct*

Published by National Center for Missing & Exploited Children (1995)

*A Police Reference Manual for Cases of Child Sexual Abuse*

Canadian Research Institute for Law and the Family (1995)

*The APSAC Handbook on Child Maltreatment*

Sage Publications, Thousand Oaks, Ca (1996, 2002)

*Profiling Violent Crimes* by Ronald M. Holmes

Sage Publications, Thousand Oaks, CA (1996, 2nd Edition)

*Portable Guides to Investigating Child Abuse Series*  
Published by U.S. Department of Justice (1997, 1999)

*Sexual Abuse in America* by Robert Freeman-Longo  
Safer Society Press, Brandon, VT (1998)

*Criminal Investigation (7<sup>th</sup> Edition)* by Leonard Territo  
McGraw-Hill Higher Education, Boston, MA (2000)

*Child Pornography: The Criminal Justice System Response*  
Published by National Center for Missing & Exploited Children (2001)

*A Guide to Prevention and Awareness of Abuse for Youth Soccer Associations*  
Bollinger, Inc., Short Hills, NJ (2001)

*How to Work with Sex Offenders*  
The Haworth Clinical Practice Press, New York, NY (2001)

*Prosecuting Online Child Exploitation Cases*  
U.S. Department of Justice (2002)

*Interpol Handbook on Good Practice for Specialist Officers Dealing with Crimes against Children* Published by Interpol (2003)

*Child Pornography: An Internet Crime*  
Brunner-Routledge, New York, NY (2003)

*Introductory Criminal Analysis: Crime Prevention and Intervention Strategies* by Thomas Baker  
Prentice Hall Publishing, Upper Saddle River, NJ (2005)

*Investigating Child Exploitation and Pornography: The Internet, The Law and Forensic Science*  
Elsevier Academic Press, Burlington, MA (2005)

*Medical, Legal, & Social Science Aspects of Child Sexual Exploitation*  
G.W. Medical Publishing, Inc., St. Louis, Missouri (2005)

*Serial Offenders: Theory and Practice*  
Jones & Bartlett Learning, Sudbury, MA (2012)

**Presented before the Following:**

American Professional Society on the Abuse of Children (APSAC) National Colloquium

National Conference on Sexual Victimization of Children

National Symposium on Child Sexual Abuse

National Symposium on Child Victimization

National Crimes against Children Seminar

Annual Washington Children's Justice Conference  
Child Abuse Summit 2001 Conference

Maryland Governor's Conference on Child Abuse and Neglect

Sexual Exploitation of Children International Conference

National Crime Faculty Staff Development Conference,  
Police Staff College, Bramshill, United Kingdom

Academy of Criminal Justice Sciences Annual Conference

American Academy of Forensic Sciences

Institute of Law, Psychiatry, and Public Policy, University of Virginia

Grand Rounds - University of Virginia,  
Department of Psychiatric Medicine - Western State Hospital

Department of Psychology, University of Alabama

Medical Assessment and Treatment of Sex Offenders, Johns Hopkins University

St Luke Institute for Sexual Disorders

Sex Offender Treatment Program, U.S. Naval Consolidated Brig

Forensic Psychiatry Seminar Walter Reed Army Medical Center

Lee Institute of Forensic Science & University of New Haven

Forensic Nursing Institute, University of Virginia

Delinquency Control Institute, University of Southern California

U.S. Naval Justice School

Federal Judicial Center, Court Education Division

National Council of Juvenile and Family Court Judges

National Judicial College

Flaschner Judicial Institute  
Bronx County Special Grand Jury

Solicitor General of Canada

National Center for Prosecution of Child Abuse, American Prosecutors Research Institute (APRI)

National College of District Attorneys

Pennsylvania District Attorneys Association

Office of Legal Education, U.S. Department of Justice, National Advocacy Center

Department of Defense Polygraph Institute

Maryland Division of Parole and Probation

U.S. Attorney General's Task Force on Family Violence

National Association of Counsel for Children

Harvard Association of Police Science

Sex Offense Seminar, New York State Police

Eastern States Vice Investigators Association

Western States Vice Investigators Association

U.S. Customs Service

U.S. Postal Inspectors

California Sexual Assault Investigators Association

Colorado Association of Sex Crimes Investigators

Texas Association of Polygraph Examiners

Sex Crimes/Child Abuse Investigators Association of New Jersey

Missing & Exploited Children Seminar, New Jersey State Police

Interpol Standing Working Party on Offenses against Children

New South Wales Police Academy, Goulburn, Australia

Royal Canadian Mounted Police Academy

U.S. Senate, Subcommittee on Juvenile Justice

Approved for Continuing Medical Education Credits by University of Alabama School of Medicine at 20<sup>th</sup> National Symposium on Child Abuse

Oregon Association for Treatment of Sex Abusers

## **AWARDS and RECOGNITION**

Jefferson Award for Research (1990)

"Ritualistic Abuse of Children"

University of Virginia

Charlottesville, Virginia

Profiled in *Violence Update* (1990)

Sage Publications

Lifetime Honorary Membership (1993)

California Sexual Assault Investigator's Association

(Only second time ever awarded)

Outstanding Professional Award (1996)

American Professional Society on the Abuse of Children (APSAC)

Award for Special Achievement (1997)

FBI Director's Annual Awards for Excellence

Dedication of *The APSAC Handbook on Child Maltreatment (2<sup>nd</sup> edition)* (2002) Sage:

"This book is dedicated to Kenneth V. Lanning. Ken, you are one of the pioneers. You led the way. You opened our eyes. You taught us. You were always one step ahead. You're the coolest FBI agent we know. You've done more than we can count to protect kids. Thanks"

Lifetime Achievement Award (2009)

National Children's Advocacy Center (NCAC)

Numerous plaques, certificates, and letters of appreciation from law enforcement agencies, prosecutors' offices, and professional organizations from all over the United States.

## **MEDIA CONTACTS**

Interviewed concerning the nature and scope of the sexual victimization of children, deviant sexual behavior, and ritual crime by the CBS, NBC, ABC, Fox Networks, MSNBC, PBS, CNN, ESPN, Frontline, National Public Radio, Associated Press, *Time Magazine*, *Newsweek*, *Reader's Digest*, *Life*, *Parade Magazine*, *Sports Illustrated*, *Ladies' Home Journal*, *People Magazine*, *Los Angeles Times*, *Washington Post*, *New York Times*, *Psychiatric News*, *National Law Journal*, *APBnews.com*, *The Economist*, *Wired*, and dozens of local TV stations and newspapers.

## **CONSULTATION**

Analyzed thousands of cases for and provided investigative, prosecutive, and sentencing guidance; expert opinions, advice, and direction; and behavioral analysis to mental health and medical professionals, social workers, police officers, FBI Agents, federal investigators, prosecutors, organizations providing access to children, defense attorneys, and civil attorneys requesting assistance in the investigation and/or prosecution of criminal cases, the filing of civil litigation, and the development of procedures to protect children in situations involving child pornography, child sexual abuse, incest, child sexual exploitation, child sex rings, compliant child victims, child prostitution, Internet crimes against children, screening and prevention, management and supervision, response to allegations, nuisance sex offenses, ritualistic abuse of children, child abduction, autoerotic fatalities, sexual assault, rape, and sexual homicide cases.

Have been asked to and have peer reviewed articles for the *International Journal of Child Abuse and Neglect*, the *Journal of Interpersonal Violence*, *Child Maltreatment*, *Sexual Abuse*, the *FBI Law Enforcement Bulletin*, and *The Police Chief*.

A founding member of the Board of Directors of the American Professional Society on the Abuse of Children (APSAC) and a former member of the APSAC Advisory Board.

A former member of the National Advisory Board of the National Resource Center on Child Sexual Abuse.

A former member of the U. S. Interagency Task Force and Work Group on Child Abuse and Neglect.

A former member of the Boy Scouts of America Youth Protection Expert Advisory Panel.

A former member of the Advisory Board of the Association for the Treatment of Sexual Abusers (ATSA).

A member of the National Advisory Committee for the Fourth National Conference on Sexual Victimization of Children sponsored by Children's Hospital National Medical Center.

A member of the Advisory Board for the Out of Home Abuse Research Project of the American Bar Association.

A member of the Advisory Board for the Ritualistic Abuse of Children Research Project funded by the National Center on Child Abuse and Neglect.

A member of the Advisory Board for the Program to Increase Understanding of Child Sexual Exploitation of the American Bar Association and the Education Development Center.

An invited participant to Working Meeting: Aids, Ethics and Sexual Assault sponsored by the National Institute of Mental Health (8/31-9/1/87) (4/1/88).

An invited participant to child pornography conference sponsored by the American Medical Association (10/21/87).

An invited participant to Think Tank on Ritualistic Abuse of Children sponsored by the National Resources Center on Child Sexual Abuse (10/22/89).

An invited participant to Ritual Abuse: Fact or Fiction Consultation sponsored by The Institute for the Prevention of Child Abuse, Toronto, Canada (10/21/90).

An invited participant to Planning Meeting on Child Pornography and Child Abuse sponsored by the National Academy of Sciences National Research Council (8/18/92).

An advisor to the "Protocols and Standards for Child Sexual Abuse Investigations" project funded by the Washington State Institute for Public Policy and commissioned by the 1996 Washington State legislature.

A member of the editorial review board of *Child Maltreatment*, the Journal of the American Professional Society of Children.

An invited evaluator of the Child Murder Research Project conducted by the Washington State Attorney General's Office and funded by Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice (10/16-17/96).

An invited participant to the Symposium on Sexual Victimization of Youth sponsored by the National Children's Advocacy Center and funded by the Office of Victims of Crime of the U.S. Department of Justice (3/21-23/97).

A member of the Advisory Board for the Second National Incidence Studies of Missing, Abducted, Runaway and Throwaway Children (NISMART II) (1997).

An invited participant to the Sex Offender Strategy Summit sponsored by the National Center for Missing & Exploited Children (6/27/97).

An invited participant to the Identifying and Responding to Child Sexual Enticement on the Internet discussion group sponsored by the National Center for Missing & Exploited Children (2/18/98).

An invited participant to The White House Conference on Missing, Exploited, and Runaway Children (10/2/02).

An invited participant to the Working Group on Online Sexual Victimization of Children, FBI Academy (2/4-5/04).

An invited participant to the Child Pornography Roundtable sponsored by the National Center for Missing & Exploited Children (2/7/08).

An invited participant to the U.S. Government Accountability Office's (GAO) Homeland Security and Justice Team Expert Roundtable on Missing and Exploited Children (3/25/10).

## **INSTRUCTION and TRAINING**

Qualified police instructor in FBI: 1970 to 2000

Adjunct instructor with University of Virginia

Adjunct instructor with University of Pennsylvania

Adjunct instructor with National College of District Attorneys

Adjunct instructor with National Judicial College

Provided instruction to law enforcement officers from all over the United States and foreign countries attending the FBI National Academy in courses accredited by the University of Virginia such as Hostage Negotiation, Applied Criminology, Criminal Profiling and Crime Analysis, Interpersonal Violence and Sexual Victimization of Children.

Provided instruction to over 50,000 law enforcement officers, prosecutors, social workers, mental health and medical personnel, judges, and other professionals at training schools, seminars, and conferences conducted all over the United States on topics such as Crime Prevention, Sexual Victimization of Children, Deviant Criminal Sexuality, Sexual Homicide, Criminal Profiling and Crime Analysis, Sexual Exploitation of Children, Ritualistic Crime, and Evaluation of Sex Offenders.

Developed and implemented a 4-month (Oct 1999 - Jan 2000) training curriculum on Criminal Investigative Analysis for FBI Agents assigned to the National Center for the Analysis of Violent Crime, FBI Academy, Quantico, Virginia

## **MAJOR PRESENTATIONS**

### **National and Regional Conferences**

"Child Pornography and Sex Rings"  
Second National Conference on Sexual Victimization of Children  
Washington, D.C. (5/6-8/82)

"Child Pornography and Sex Rings"  
National Conference on Child Abuse and Neglect  
Baltimore, Maryland (9/27/83)

"Child Pornography"  
International Symposium on Media Violence and Pornography  
Toronto, Canada (2/5/84)

"Pedophile Collectors" and "Murdered and Missing Children"  
Third National Conference on Sexual Victimization of Children  
Washington, D.C. (4/26-28/84)

"Pedophile Behavior"  
Eastern States Vice Investigators Association  
New Carrollton, Maryland (5/22/84)

"Missing Children"  
Western Conference on Criminal and Civil Problems  
Wichita, Kansas (5/25/84)

"Child Pornography"  
National Catholic Conference on the Illegal Sex Industry  
New York, N.Y. (6/2/84)

"Child Pornography"  
National Consultation on Pornography  
Cincinnati, Ohio (9/6/84)

"Sexual Exploitation of Children"  
International Juvenile Officers' Association National Conference  
Washington, D.C. (6/26/84)

"Child Molestation"  
Protecting Our Children: The Fight against Molestation  
A National Symposium  
Washington, D.C. (10/2/84)

"Child Pornography" and "Missing children"  
Ohio State Conference on Sexual Abuse of Children  
Cincinnati, Ohio (11/1/84)

"Missing Children"  
International Association of Chiefs of Police  
Atlanta, Georgia (1/22/85)

"Murdered and Missing Children"  
California Homicide Investigators Association  
Reno, Nevada (3/7/85)

"Child Molesters"  
1985 Virginia Conference on Child Abuse and Neglect  
Richmond, Virginia (4/26/85)

"Missing Children"  
General Federation of Women's Clubs Annual Convention  
Houston, Texas (6/4/85)

"Pedophilia, Child Pornography and Sex Rings"  
FBI National Academy 50th Anniversary Training Session  
Tampa, Florida (7/16-19/85)

"Missing Children"  
Child Abuse and Missing Children Seminar  
Institute for Advancement of Human Behavior  
Washington, D.C. (9/22/85)

"Child Molesters"  
California Sexual Assault Investigators Association  
Sacramento, California (10/10/85)

"Pedophiles and Sex Rings"  
Albany Child Abuse and Neglect Council,  
Albany, New York (11/6/85)

"Child Pornography"  
National Conference on Child Abuse and Neglect  
Chicago, Illinois (11/10-13/85)

"Missing Children"  
National Conference on Missing and Exploited Children  
Chicago, Illinois (3/2-5/86)

"Child Molester Typology" and "Child Abduction"  
National Conference on Sexual Victimization of Children  
New Orleans, Louisiana (5/15-17/86)

"Child Molester Typology"  
Inland Empire Child Abuse Training Task Force  
Riverside, California (10/23/86)

"Child Molester Typology"  
U.S. Postal Inspectors  
National Training Seminar  
Atlanta, Georgia (1/5-7/87)

"Child Molester Typology",  
Children's Institute International  
Los Angeles, California (1/14/87)

"Child Molester Typology" and "Assessment and Corroboration of Child Victim Statements"  
Third National Symposium on Child Sexual Abuse  
Huntsville, Alabama (2/26-27/87)

"Ritualistic Abuse of Children"  
Florida Department of Law Enforcement  
Second Annual Sexual Exploitation Workshop  
Jacksonville, Florida (3/26-27/87)

"Ritualistic Abuse of Children"  
Conference on Satanic Worship and the Occult  
Maryland State Police  
Westminster, Maryland (3/31/87)

"Child Molester Typology"  
Virginia Child Sexual Abuse Conference  
Hampton, Virginia (4/16/87)

"Sexual Exploitation of Children"  
Tri-County Investigators Association  
Ventura, California (5/13/87)

"Child Molester Typology"  
Los Angeles Police Department  
Criminal Personality Profiling Seminar  
Los Angeles, California (5/14/87)

"Child Molester Typology"  
U.S. Customs Service National Training Seminar  
Ft. Lauderdale, Florida (5/18-19/87)

"Ritualistic Abuse of Children" and "Child Abductors"  
National Conference on Missing and Exploited children  
Chicago, Illinois (6/8-11/87)

"Sexual Exploitation of Children"  
International Association for Identification  
Alexandria, Virginia (8/5/87)

"Criminal Sexuality"  
Law Enforcement Satellite Training Network  
National Broadcast (9/30/87)

"Prevention of Sexual Exploitation of Children"  
International Society of Crime Prevention Practitioners  
Montreal, Canada (10/2/87)

"Child Pornography"  
Morality In Media National Convention on Pornography  
Orlando, Florida (10/29/87)

"Sexual Exploitation of Children" and "AIDS and Sexual Assault"  
Executive Training Seminar  
National Organization of Black Law Enforcement  
Miami, Florida (11/7/87)

"Child Molester Typology"  
Los Angeles County Sheriff's Office  
Criminal Personality Profiling Seminar  
Los Angeles, California (12/3/87)

"The Maligned Investigator of Criminal Sexuality" and "Corroboration of Child Sexual Abuse"  
Third Annual Sexual Abuse Conference  
Florida Department of Health and Rehabilitative Services  
Sarasota, Florida (12/10-11/87)

"The Maligned Investigator of Criminal Sexuality" and "Ritualistic Abuse of Children"  
Illinois Association of Chiefs of Police  
Matteson, Illinois (1/18/88)

"Investigation of Child Sexual Abuse"  
Fourth National Symposium on Child Sexual Abuse  
Huntsville, Alabama (2/26/88)

"Victimization of Children in Groups"  
National Symposium on Child Victimization  
Anaheim, California (2/27-30/88)

"Child Pornography" and "Profiling of Child Abductors"  
Advanced Master's Course in Investigation of  
Child Sexual Exploitation, Molestation and Abduction  
Kansas City, Missouri (5/3-6/88)

"Child Sex Rings" and "Ritualistic Abuse of Children"  
National Conference on Child Sexual Exploitation  
Tucson, Arizona (7/30-8/1/88)

"Ritualistic Abuse of Children"  
Advanced Ritualistic Crime Seminar  
Richmond, Virginia (9/22/88)

"Sexual Victimization of Adolescent Boys"  
National Training Conference on Youthful Sex offenders  
California Department of the Youth Authority  
Long Beach, California (11/14/88)

"Ritualistic Abuse of Children" and "The Names and Numbers Game"  
Fifth National Symposium on Child Sexual Abuse  
Huntsville, Alabama (3/1-3/89)

"Investigation of Child Sex Rings" and "Ritualistic Abuse of Children"  
18th Annual Child Abuse and Neglect Symposium  
C. Henry Kempe National Center  
Keystone, Colorado (5/22-26/89)

"Satanic, Occult, Ritualistic Crime"  
National Conference on Missing and Exploited children  
Huntsville, Texas (10/1-3/89)

"Ritualistic Abuse of Children"  
National Conference on Child Abuse and Neglect  
Salt Lake City, Utah (10/22-25/89)

"Cults and Gangs"  
Law Enforcement Satellite Television Network  
National Broadcast (2/14/90)

"Child Molester Typology" and "Satanic, Occult, Ritualistic Crime"  
Sixth National Symposium on Child Sexual Abuse  
Huntsville, Alabama (3/7-9/90)

"Infant Abduction"  
Law Enforcement Satellite Television Network  
National Broadcast (4/11/90)

"Child Sexual Abuse" and "Satanic/Occult Crime"  
International Conference of Police Chaplains  
Mobile, Alabama (7/10-11/90)

"Child Molesters" and "Child Sex Rings"  
The Institute for the Prevention of Child Abuse  
Toronto, Canada (10/21-23/90)

"Child Sexual Abuse"  
Gulf Coast Conference on Child Abuse  
Mobile, Alabama (10/24-26/90)

"Satanic Cults and Ritualistic Crime: A Law Enforcement Perspective"  
Michigan Association of Chiefs of Police  
Bellaire, Michigan (6/25/91)

"Sexual Exploitation of Children"  
New York State Police Sexual Offense Seminar  
Albany, New York (10/29-30/91)

"Complex Investigation of Child Sexual Victimization"  
Intervention Specialists Certificate Training  
National Children's Advocacy Center  
Huntsville, Alabama (12/6/91)

"Corroborative Evidence" and "Typology of Child Molesters and Paraphilics"  
Eighth National Symposium on Child Sexual Abuse  
Huntsville, Alabama (2/17-21/92)

"Cult Murders"  
International Homicide Investigators' Association Symposium  
Pittsburgh, Pennsylvania (8/3/92)

"Cults and Rituals," "Corroboration," and "Molester Typology"  
Multidisciplinary Conference on Child Abuse  
Tulsa, Oklahoma (10/1-2/92)

"Validity of Repressed Memories in Abuse Cases," "Investigation of Sex Rings," and "Maligned Investigator"

San Diego Conference on Responding to Child Maltreatment  
San Diego, California (1/27-28/93)

"Typology of Offenders" and "Overview of Sexual Paraphilias"  
Ninth National Symposium on Child Sexual Abuse  
Huntsville, Alabama (3/10-11/93)

"Sexual Homicide of Abducted Children"  
Management of the Child Abduction Case Symposium  
Bloomington, Minnesota (5/5/93)

"Advanced Issues in the Investigation of Child Sexual Abuse"  
"Investigating Multivictim/Multiperpetrator Cases"  
APSAC First National Colloquium  
Chicago, Illinois (6/25-26/93)

"Cults"  
S.C. Law Enforcement Officers Association Annual Conference  
Myrtle Beach, South Carolina (8/8/93)

"Satanic Ritual Abuse"  
Fifth Annual Crimes Against Children Seminar  
Dallas, Texas (9/2/93)

"Current Controversies in Child Sexual Abuse"  
International Association of Women Police Annual Conference  
Vancouver, British Columbia, Canada (11/4/93)

"Criminal Sexuality"  
Law Enforcement Satellite Training Network  
National Broadcast (12/8/93)

"Sexual Paraphilias in Child Sexual Abuse Cases"  
"Children in Cults: A Law Enforcement Perspective"  
San Diego Conference on Responding to Child Maltreatment  
San Diego, California (1/24-28/94)

"Typology of Child Molesters" and "Current Controversies in Child Sexual Abuse"  
Tenth National Symposium on Child Sexual Abuse  
Huntsville, Alabama (2/23-25/94)

"What is Child Pornography?"  
APSAC Second National Colloquium  
Cambridge, Massachusetts (5/6/94)

"Ritualistic Child Abuse"  
Advanced Crimes against Children Seminar  
Florida Criminal Justice Executive Institute  
Ft. Lauderdale, Florida (1/18-19/95)

"Infant Abduction," "Multivictim Cases," and "Maligned Investigator of Criminal Sexuality"  
San Diego Conference on Responding to Child Maltreatment  
San Diego, California (1/26-27/95)

"Corroborative Evidence" and "Typology of Offenders"  
Eleventh National Symposium on Child Sexual Abuse  
Huntsville, Alabama (3/1-2/95)

"Child Molesters: A Behavioral Analysis" and "Investigation of Child Pornography"  
Third Annual Washington Children's Justice Conference  
Bellevue, Washington (4/12-13/95)

"Child Abductors"  
L.A. Police & Sheriff's Departments Kidnapping Investigation Seminar  
Los Angeles, California (10/18/95)

"Use of Computers in Sexual Victimization of Children"  
Ancient Crimes in Modern Times Conference  
Albany Rape Crisis Center  
Albany, New York (10/26/95)

"Sexual Exploitation of Children"  
Western Regional Symposium on Child Abuse and Sexual Assault  
Eugene, Oregon (11/2/95)

"Child Pornography" and "Understanding Offender Behavior"  
National Symposium on Child Victimization  
Washington, DC (11/9-10/95)

"Sex Offender Continuum"  
San Diego Conference on Responding to Child Maltreatment  
San Diego, California (1/26/96)

"Pedophiles and Computers"  
Law Enforcement Satellite Television Network  
National Broadcast (3/13/96)

"Use of Computers in Sexual Victimization of Children" and "Sex Offender Continuum"  
Twelfth National Symposium on Child Sexual Abuse  
Huntsville, Alabama (3/28-29/96)

"Use of Computers in the Sexual Victimization of Children"  
"Maligned Investigator of Criminal Sexuality"  
APSAC Fourth National Colloquium  
Chicago, Illinois (6/27-28/96)

"Sex Offender Continuum" and "Child Molesters Who Abduct"  
Eighth Annual Crimes against Children Seminar  
Dallas, Texas (7/16-17/96)

"Investigation of Sexual Victimization of Children"  
Fifth Annual Western States Sexual Assault Seminar  
Las Vegas, Nevada (10/3/96)

"Application of Behavioral Science to the Investigation of Sexual Victimization of Children"  
APSAC Advanced Training Institute  
San Diego, California (1/27/97)

"The 'Witch Hunt,' the 'Backlash,' and Professionalism"  
San Diego Conference on Responding to Child Maltreatment  
San Diego, California (1/29/97)

"Child Molesters Who Abduct"  
Thirteenth National Symposium on Child Sexual Abuse  
Huntsville, Alabama (3/20-21/97)

"Law Enforcement Responses to Child Maltreatment in the 1970's, 1980's, 1990's and the Next Decade"  
Twenty-Fifth Annual Child Abuse and Neglect Symposium  
C. Henry Kempe National Center  
Keystone, Colorado (5/14/97)

"The Witch Hunt, the Backlash, and Professionalism"  
"Computers and the Sexual Victimization of Children"  
Thirteenth Annual Training Symposium  
Georgia Council on Child Abuse  
Atlanta, Georgia (6/9-10/97)

"Use of Computers in Child Sexual Exploitation"  
"Importance of Corroboration in Child Sexual Abuse Cases"  
APSAC Fifth National Colloquium  
Miami Beach, Florida (6/19/97)

"The Witch Hunt, the Backlash, and Professionalism," "Sex Offender Continuum," and "Corroboration in Child Sexual Abuse Cases"  
Ninth Annual Crimes against Children Seminar  
Dallas, Texas (8/19-21/97)

"The Sexual Exploitation of Children" (Keynote Address)  
"Child Pornography"  
Fifth Oklahoma Conference on Child Abuse and Neglect  
Tulsa, Oklahoma (9/16/97)

"Child Molesters Who Abduct"  
San Diego Conference on Responding to Child Maltreatment  
San Diego, California (1/30/98)

"Application of Behavioral Science to the Investigation of Sexual Victimization of Children"  
APSAC Advanced Training Institute  
San Diego, California (1/31/98)

"Behavioral Science Perspective"  
Online Child Pornography/Child Sexual Exploitation  
Southeast Region Symposium  
Atlanta, Georgia (2/25-27/98)

"Child Erotica: What is it and Who Cares"  
Fourteenth National Symposium on Child Sexual Abuse  
Huntsville, Alabama (3/17-20/98)

"Law Enforcement Considerations"  
Child Forensic Interview Training Clinic  
American Professional Society on the Abuse of Children  
Huntsville, Alabama (3/17/98)

"Sex Offender Continuum"  
"Child Pornography"  
Child Sexual Abuse: A Multidisciplinary Training Conference  
Somerset, New Jersey (3/27/98)

"Sexual Homicide of Children"  
Virginia Homicide Investigators Association  
Quantico, Virginia (4/14/98)

"Child Abduction and Homicide"  
Sixth Annual Children's Justice Conference  
Bellevue, Washington (4/20/98)

"Behavioral Science Perspective" and Online Child Pornography/Child Sexual Exploitation  
Northeast Regional Symposium  
Morristown, New Jersey (4/30-5/1/98)

"Sex Offender Continuum"  
AP SAC Sixth Annual National Colloquium  
Chicago, Illinois (7/8-11/98)

"Behavioral Science Perspective"  
Online Child Pornography/Child Sexual Exploitation  
Midwest Regional Symposium  
Argonne, Illinois (8/12-13/98)

"Child Pornography and Child Erotica" and "Sex Offender Continuum"  
Tenth Annual Crimes against Children Seminar  
Dallas, Texas (8/18-19/98)

"Sexual Victimization of Children"  
Colorado Association of Sex Crimes Investigators  
Annual Conference  
Snowmass, Colorado (8/27/98)

"Typology of Offenders" and "Child Pornography-What Is It?"  
Targeting the Sexual Exploitation of Children  
International Conference  
Vancouver, British Columbia, Canada (10/13-15/98)

"Behavioral Science Perspective"  
Online Child Pornography/Child Sexual Exploitation  
West Regional Symposium  
Berkeley, California (12/9-11/98)

"Application of Behavioral Science to the Investigation of Sexual Victimization of Children"  
APSAC Advanced Training Institute  
San Diego, California (1/25/99)

"Behavioral Science Perspective"  
Online Child Pornography/Child Sexual Exploitation  
Southern Midwestern Regional Symposium  
St. Louis, Missouri (2/11-12/99)

"Sex Offender Continuum" and "Cyber Pedophiles: A Behavioral Perspective"  
APSAC Seventh Annual National Colloquium  
San Antonio, Texas (6/3-4/99)

"Pedophiles in Cyberspace"  
Eleventh Annual Crimes against Children Seminar  
Dallas, Texas (8/2-5/99)

"Profiling Sex Offenders"  
Western States Vice Investigators Association  
24th Annual Training Conference  
Seattle, Washington (9/27/99)

"Sex Offender Continuum"  
Texas Association of Polygraph Examiners  
Annual Conference  
Texarkana, Texas (10/16/99)

"Child Pornography" and "The Witch Hunt, the Backlash, And Professionalism"  
Northeast Child Maltreatment Conference  
Providence, Rhode Island (11/15/99)

"Child Molestation"  
2nd Annual Sex Crimes Conference  
Sex Crimes/Child Abuse Investigators Association of New Jersey  
Atlantic City, New Jersey (11/17/99)

"Child Abuse 2000: A Retrospective of the Past 25 Years, A Prospectus for the Future"  
"Online Child Pornography"  
Sixteenth National Symposium on Child Sexual Abuse  
Huntsville, Alabama (3/8/00)

"Sexual Victimization of Children"  
Sex Offense Seminar  
New York State Police  
Albany, New York (5/24/00)

"Paraphilias Relating to the Sexual Victimization of Children," "Child Pornography and Child Erotica," and "Acquaintance Child Molesters"  
Twelfth Annual Crimes against Children Seminar  
Dallas, Texas (8/21-22/00)

"Violence Against Juveniles, Violence by Juveniles" and "Snuff Films"  
Seventh Annual IHIA Conference  
International Homicide Investigators Association  
Quantico, Virginia (9/18/00)

"Overview of the Sexual Victimization of Children" and "Typology of Child Molesters"  
Fifth Annual Fall Collaboration of Child Abuse Professionals  
Kill Devil Hills, North Carolina (10/16/00)

"Sex Offender Continuum"  
Children's Justice Task Force Conference  
Morgantown and Charleston, West Virginia (10/11 & 12/00)

"Violence by and Violence against Juveniles" and "Sex Offender Continuum"  
4<sup>th</sup> Annual Broken Boundaries Conference  
Warwick, Rhode Island (10/19/00)

"Acquaintance Molestation of Children"  
Albany County Rape Crisis Center's 17<sup>th</sup> Annual Conference  
Albany, New York (10/20/00)

"Application of Behavioral Analysis to the Investigation of Sexual Victimization of Children"  
Professional Training Workshop  
Chicago Children's Advocacy Center  
Chicago, Illinois (1/12/01)

"Violence against Juveniles, Violence by Juveniles"  
San Diego Conference on Responding to Child Maltreatment  
San Diego, California (1/26/01)

"Sexual Victimization of Children" and "Sex Offender Continuum"  
Child Abuse Summit 2001 Conference  
Portland, Oregon (4/19/01)

"Child Pornography"  
APSAC Ninth Annual National Colloquium  
Washington, D.C. (6/21/01)

"Sexual Victimization of Children"  
The 13<sup>th</sup> Annual Conference of Southern Christian Services  
Hattiesburg, Mississippi (7/26/01)

"Sex Offender Continuum"  
Thirteenth Annual Crimes against Children Seminar  
Dallas, Texas (8/21-22/01)

"Computer Exploitation of Children"  
California Sexual Assault Investigators Association Fall Training  
South Lake Tahoe, Nevada (10/12/01)

"Questionable Child Pornography" & "Compliant Child Victims"  
2002 Crimes against Children Seminar  
Dallas, Texas (8/5-6/02)

"Deviant Criminal Behavior"  
Fourth Annual Violent Crime Analysis Regional Workshop  
Los Angeles, California (8/7/02)

"The Sexual Victimization of Children: A Behavioral Analysis"  
The 5<sup>th</sup> Annual Conference on Sex Offender Registration and Community Notification  
Seattle, Washington (9/23/02)

"Child Molesters: A Behavioral Analysis"  
New Jersey State Police Conference on Missing and Exploited Children  
Eatontown, New Jersey (12/5/02)

"Behavioral Analysis of Sex Offenders"  
The San Diego Conference on Child and Family Maltreatment  
San Diego, California (2/4/03)

"Celebrating the Past, Embracing the Future: The Law Enforcement Perspective"  
"Compliant Child Victims: Confronting an Uncomfortable Reality"  
"A Typology of Child Molesters" (Approved for Continuing Medical Education Credits by  
University of Alabama School of Medicine)  
20<sup>th</sup> National Symposium on Child Abuse  
Huntsville, Alabama (3/17-19/04)

"Use of Experts as Education Witnesses" and "A Typology of Child Molesters"  
21<sup>st</sup> National Symposium on Child Abuse  
Huntsville, Alabama (3/8-11/05)

"Compliant Child Victim" and "Sex Offender Continuum"  
13th Annual Children's Justice Conference  
Seattle, Washington (3/21/05)

"Compliant Child Victim" and "Computer Exploitation of Children"  
Child Abuse Summit 2005 Conference  
Portland, Oregon (4/28/05)

"A Typology of Child Molesters" and "Overview of Sexual Victimization of Children"  
18<sup>th</sup> Annual Conference on Child Abuse & Family Violence  
Salt Lake City, Utah (10/4-5/05)

"Sexual Victimization of Children: Practical Problems" and "Paraphilias other than Pedophilia"  
22<sup>nd</sup> National Symposium on Child Abuse  
Huntsville, Alabama (3/15-16/06)

"Sexual Victimization of Children"  
Idaho Crime Prevention Associations Conference  
Sun Valley, Idaho (10/26/06)

"Capturing the Friedmans" and "Acquaintance Child Molesters"  
23rd National Symposium on Child Abuse  
Huntsville, Alabama (3/21-23/07)

"Child Abuse Investigative Issues"  
Investigator's Institute  
22<sup>nd</sup> Annual International Conference on Child and Family Maltreatment  
San Diego, California (1/28/08)

"Sexual Victimization of Children: Case Studies"  
"Behavioral Analysis of Acquaintance Child Molester"  
22<sup>nd</sup> Annual International Conference on Child and Family Maltreatment  
San Diego, California (1/31/08)

"Child Pornography and Collateral Evidence"  
"Sexual Victimization of Children: Case Studies"  
24<sup>th</sup> National Symposium on Child Abuse  
Huntsville, Alabama (3/18-20/08)

"Witch Hunt, Backlash, and Professionalism" "Sexual Exploitation of Children for MDT"  
"Capturing the Friedmans" and "Paraphilias other than Pedophilia"  
20<sup>th</sup> Annual Crimes against Children Conference  
Dallas, Texas (8/11-14/08)

"Child Sexual Murders"  
"Child Pornography and Collateral Evidence"  
"Compliant Child Victims"  
23<sup>rd</sup> Annual International Conference on Child and Family Maltreatment  
San Diego, California (1/27-29/09)

"Child Molesters: A Behavioral Analysis"  
"Witch Hunt, Backlash, and Professionalism"  
25<sup>th</sup> National Symposium on Child Abuse  
Huntsville, Alabama (3/24-25/09)

"Acquaintance Child Molesters" "Fantasy Defense in Internet Cases" "Use of Experts as Education Witnesses" and "Responses by Youth Serving Organizations"  
21<sup>st</sup> Annual Crimes against Children Conference  
Dallas, Texas (8/17-20/09)

"Pedohebephilic Disorder" "Satanic Ritual Abuse Allegations" "Graduate Child Victims" and "Child Molesters: A Behavioral Analysis, 5<sup>th</sup> Edition"  
22<sup>nd</sup> Annual Crimes against Children Conference  
Dallas, Texas (8/9-12/10)

"Child Molesters: A Behavioral Analysis, the new 5<sup>th</sup> Edition"  
"Seduced by Dark Side: Lessons of Past Satanic Ritualistic Abuse Allegations"  
25th Annual International Conference on Child and Family Maltreatment  
San Diego, California (1/24-25/11)

"Questionable Child Pornography" "Sexual Victimization of Children: A Law Enforcement Perspective over 40-Year."  
25th<sup>d</sup> Annual Crimes against Children Conference  
Dallas, Texas (8/12-13/13)

"Acquaintance Molestation and Youth-Serving Organizations" "Sexual Assault: Rape or Molestation."  
27th Annual Crimes against Children Conference  
Dallas, Texas (8/10-11/15)

### **University and Professional Groups**

"Sexual Exploitation of Children"  
Indiana University School of Nursing  
Indianapolis, Indiana (3/18/82)

"Child Pornography and Youth Prostitution Rings"  
American Society of Adolescent Psychiatry  
Western States Conference  
Seattle, Washington (9/25/82)

"Child Pornography and Prostitution"  
American Orthopsychiatric Association Annual Meeting  
Boston, Massachusetts (4/7/83)

"Child Molesters"  
Department of Psychology, University of Alabama  
Tuscaloosa, Alabama (12/9/83)

"Child Sexual Abuse"  
American Orthopsychiatric Association Annual Meeting  
Toronto, Canada (4/8/84)

"Sexual Victimization of Children"  
Criminal Justice Center  
Sam Houston State University  
Huntsville, Texas (5/19/84)

"Pedophiles and Child Pornography"  
University of Maryland Conference  
Baltimore, Maryland (5/21/84)

"Child Molesters"  
The Old Dominion University Conference  
Portsmouth, Virginia (10/12/84)

"Sexual Abuse of Children"  
University of Virginia School of Medicine  
Charlottesville, Virginia (12/12/84)

"Child Pornography"  
Duke University  
Durham, North Carolina (1/12/85)

"Sex Offenders"  
Medical Assessment and Treatment of Sex Offenders  
Johns Hopkins University  
Baltimore, Maryland (2/21/85)

"Child Molesters"  
6th Annual Symposium on Critical Issues in Criminal Justice: Exploitation of the Child  
Loyola University  
Chicago, Illinois (2/27/85)

"Child Molesters - A Law Enforcement Perspective"  
Academy of Criminal Justice Sciences Annual Meeting  
Las Vegas, Nevada (4/2/85)

"Child Molesters"  
Mount Vernon Mental Health Center  
George Mason University  
Fairfax, Virginia (5/17/85)

"Child Molesters"  
Interdisciplinary Conference on Sexual Victimization of Children  
Old Dominion University  
Virginia Beach, Virginia (9/25-27/85)

"Child Pornography and Sex Rings"  
Delinquency Control Institute  
University of Southern California  
Los Angeles, California (10/2/85)

"Recognition of Child Molesters"  
Fairfax County Public Schools  
Reston, Virginia (12/19/85)

"Prevention of Child Abuse through Teacher Identification and Character Evaluation"  
State of California Commission on Teacher Credentialing  
Sacramento, California (1/10-12/86)

"Ritualistic Sexual Abuse of Children"  
National Conference Taylor Institute and University of Chicago  
Chicago, Illinois (4/16-19/86)

"Typology and Treatability of Child Molester"  
National College of District Attorneys  
New Orleans, Louisiana (10/15/86)

"Child Molester Typology"  
National Council of Juvenile and Family Court Judges  
Columbus, Ohio (10/28/86)

"Child Molester Typology"  
Delinquency Control Institute  
University of Southern California  
Los Angeles, California (1/16/87)

"Sexual Abuse of Children Offender Profiles"  
Flaschner Judicial Institute  
Natick, Massachusetts (4/10/87)

"Forensic Evaluations in Child Sexual Abuse Cases"  
Institute of Law, Psychiatry and Public Policy  
University of Virginia  
Charlottesville, Virginia (4/17/87)

"Child Molester Typology"  
Harvard Association of Police Science  
Williamsburg, Virginia (6/22-24/87)

"Child Pornography"  
National College of District Attorneys  
Philadelphia, Pennsylvania (12/1/87)

"Multiple Victim/Multiple Perpetrator Cases"  
California Professional Society on the Abuse of Children  
Costa Mesa, California (12/4/87)

"Typology of Child Molesters" and "Corroboration of Child Sexual Abuse"  
Pennsylvania District Attorneys Association  
Philadelphia, Pennsylvania (2/10/88)

"Ritualistic Abuse of Children"  
National District Attorneys Association  
Reno, Nevada (3/2/88)

"Typology of Child Molesters"  
Academy of Criminal Justice Sciences Annual Conference  
San Francisco, California (4/5-6/88)

"Ritualistic Abuse of Children"  
Multiple Personality Study Group of Washington, D.C.  
Washington, D.C. (7/22/88)

"Ritualistic Abuse of Children"  
St. Albans Psychiatric Hospital  
Roanoke, Virginia (9/13/88)

"Ritualistic Abuse of Children"  
Psychiatric Residents' Conference  
Walter Reed Army Medical Center  
Washington, D.C. (9/29/88)

"Typology of Child Molesters" and "Disposition and Offenders"  
Tri-State Judicial Conference  
National Judicial College  
Fargo, North Dakota (10/7-8/88)

"Baby Kidnapping"  
National Symposium on Violence in Health Care  
International Association for Hospital Security  
Washington, D.C. (11/11/88)

"Child Pornography"  
National College of District Attorneys  
Baltimore, Maryland (11/28/88)

"Ritualistic Abuse of Children"  
Maryland Department of Health and Mental Hygiene  
Spring Grove Hospital Center  
Catonsville, Maryland 21228 (3/17/89)

"Ritualistic Abuse of Children"  
Academy of Criminal Justice Sciences Annual Conference  
Washington, D.C. (3/29/89)

"Overview of Sexual Abuse of Children"  
University of Baltimore  
Baltimore, Maryland (4/6/89)

"Ritualistic Abuse of Children"  
Middle Atlantic-Great Lakes Organized Crime

Law Enforcement Network  
Towson, Maryland (6/1/89)

"Child Sex Rings"  
National Center for the Prosecution of Child Abuse  
Leesburg, Virginia (10/12/89)

"Satanic, Occult, Ritualistic Crime"  
American Academy of Psychiatry and the Law  
Quantico, Virginia (10/19/89)

"Child Pornography"  
National College of District Attorneys  
Orlando, Florida (10/29/89)

"Child Sexual Abuse"  
University of South Carolina Law School  
Columbia, South Carolina (1/26/90)

"Satanic, Occult, Ritualistic Crime"  
National Council of Juvenile and Family Court Judges  
New Orleans, Louisiana (3/28/90)

"Ritualistic Abuse of Children"  
Judicial Education Committee for Oregon Judges  
Portland, Oregon (6/7/90)

"Child Sex Rings"  
Loma Linda University School of Medicine  
San Bernardino, California (11/1/90)

"Child Molesters"  
2nd Annual Forensic Psychiatry Seminar  
Walter Reed Army Medical Center  
Washington, D.C. (11/19/90)

"Typology of Child Molesters"  
"Multidimensional Child Sex Rings"  
American Academy of Forensic Sciences  
Anaheim, California (2/21-22/91)

"Criminal Sex Offenders"  
Maryland Division of Parole and Probation  
Baltimore, Maryland (5/20-22/91)

"Ritual Abuse of Children"  
American Psychological Association Annual Meeting  
San Francisco, California (8/16-20/91)

"Child Pornography and Sex Rings"  
National Center for Prosecution of Child Abuse  
Basic Training for Prosecutors  
Hartford, Connecticut (6/29/91) and Seattle, Washington (8/31/91)

"Satanic, Cult, and Ritualistic Crime"  
American Academy of Psychiatry and the Law Annual Meeting  
Orlando, Florida (10/17/91)

"Sexual Victimization of Children: Current Controversies"  
The Law and Treatment of Sexual Offenders  
Arlington Bar Association  
Arlington, Virginia (11/21/92)

"Ritualistic Abuse of Children"  
Northern Virginia Chapter of Clinical Counselors  
Annandale, Virginia (9/25/92)

"Typology of Child Molesters"  
Orange County California Social Services Agency  
Santa Ana, California (1/29/92)

"Evaluation of Child Molesters"  
St Luke Institute for Sexual Disorders  
Suitland, Maryland (3/25/93)

"Child Pornography and Sex Rings"  
National Center for Prosecution of Child Abuse  
Georgetown University, Washington, DC (8/13/93)

"Organized Sadistic Abuse"  
Sixth Eastern Regional Conference on Abuse & Multiple Personality  
Alexandria, Virginia (6/13/94)

"Identifying Child Molesters"  
Points of Light National Community Service Conference  
Washington, DC (6/14/94)

"Corroboration of Child Sexual Abuse Allegations"  
Forensic Nursing Institute, University of Virginia  
Charlottesville, Virginia (6/23/94)

"Child Pornography and Sex Rings"  
National Center for Prosecution of Child Abuse  
Kansas City, Missouri (8/5/94)

"Ritual Abuse: Definition and Diagnosis"  
Meeting of American Academy of Child and Adolescent Psychiatry  
New York, New York (10/29/94)

"Corroboration of Child Sexual Abuse Allegations"  
Forensic Nursing Institute, University of Virginia  
Charlottesville, Virginia (6/22/95)

"Child Sexual Abuse: Victim and Offender Patterns of Behavior"  
Sexual Assault Center of Prince George's Hospital Center  
Cheverly, Maryland (10/16/95)

"Sexual Victimization of Children"  
Eighteenth National Children's Law Conference  
National Association of Counsel for Children  
Boston, Massachusetts (9/15/95)

"Computers, On-Line Services and the Internet: How They Are Used in the Sexual Victimization of Children"  
Fifteenth Annual Research and Treatment Conference  
The Association for the Treatment of Sexual Abusers  
Chicago, Illinois (11/16/96)

"Sexual Victimization of Children: A Behavioral Analysis"  
George Mason University  
Manassas, Virginia (5/28-29/97)

"Situational and Preferential Child Molesters: A Typology"  
34th Semi-Annual Forensic Symposium  
Institute of Law, Psychiatry, and Public Policy  
University of Virginia  
Charlottesville, Virginia (5/8/98)

"Offender Typology"  
Beyond the Basics: Investigation of Child Exploitation Cases  
American Prosecutors Research Institute  
Arlington, Virginia (5/11/98)

"Overview of Sexual Victimization" & "Child Abduction"  
Children of Violence Conference  
Old Dominion University  
Norfolk, Virginia (6/1/98)

"Sex Offender Continuum"  
Grand Rounds - University of Virginia  
Department of Psychiatric Medicine - Western State Hospital  
Staunton, Virginia (7/29/98)

"Sexual Victimization of Children"  
American Re-EDucation Association Conference  
Norfolk, Virginia (8/25/98)

"Investigating Crimes against Children"  
Arnold Markle Symposium  
Lee Institute of Forensic Science & University of New Haven  
West Haven, Connecticut (3/18/99)

"Offender Typology"  
Investigation and Prosecution of Child Sexual Exploitation  
American Prosecutors Research Institute  
National Advocacy Center  
Columbia, South Carolina (6/24/99)

"Offender Typology"  
Investigation and Prosecution of Child Sexual Exploitation  
American Prosecutors Research Institute  
Santa Fe, New Mexico (12/6/99)

"Cults and Compounds"  
27th National Conference on Juvenile Justice  
National Council of Juvenile and Family Court Judges  
Tampa, Florida (3/21/00)

"Overview of Sexual Victimization of Children"  
Seventh Annual Childhood Violence Symposium  
Department of Pediatrics  
State University of New York at Buffalo  
Buffalo, New York (4/6/00)

"Shielding Children from Molestation and Abuse"  
27th Annual Training Conference  
National Head Start Association  
Washington, DC (4/27/00)

"History and Future Trends of Behavioral Analysis in Crimes against Children"  
International Criminal Investigative Analysis Fellowship Seminar  
FBI Academy  
Quantico, Virginia (9/25/00)

"Offender Typology"  
Investigation and Prosecution of Child Sexual Exploitation  
American Prosecutors Research Institute  
Santa Fe, New Mexico (12/4/00)

"Offender Typology"  
Investigation and Prosecution of Child Sexual Exploitation  
American Prosecutors Research Institute  
Santa Fe, New Mexico (11/27/01)

"Offender Typology"  
Prosecuting Online Crimes Against Children  
American Prosecutors Research Institute  
Sacramento, California (7/22/02)

"Sexual Victimization of Children"  
Carelink Community Support Services  
Norristown State Hospital  
Norristown, Pennsylvania (11/8/02)

"Clergy Sexual Victimization" (Plenary Session)  
"Corroborative Evidence in Clergy Molestation Cases"  
First National Conference on Clergy Abuse  
Benjamin N. Cardozo School of Law  
New York, New York (4/10-11/03)

"Pedophilia in the United States"  
U.S. Conference of Catholic Bishops  
Auditor Training  
St. Louis, Missouri (5/20/03)

"Compliant Child Victims"  
38th Semi-Annual Forensic Symposium  
Institute of Law, Psychiatry, and Public Policy  
University of Virginia  
Charlottesville, Virginia (9/26/03)

"Compliant Child Victims"  
Psychological and Legal Issues of Internet Abuse Images Conference  
Department of Applied Psychology  
University College Cork  
Cork, Ireland (5/24-26/04)

"Sexual Victimization of Children by Your Client's Employees and Agents"  
Federation of Defense and Corporate Counsel  
FDCC 2004 Annual Meeting  
Cambridge, Maryland (7/29/04)

*"Capturing the Friedmans:* What it Tells Us about Our Justice System"

Panel Discussion

The Association of the Bar of the City of New York

New York, New York (10/6/04)

**"Child Molesters: A Behavioral Analysis"**

Polygraph 2004 Tri-State Symposium

American Polygraph Association

Virginia Beach, Virginia (11/5/04)

**"Cyber 'Pedophiles': A Behavioral Analysis"**

Internet Child Abuse and Pornography Seminar

American Bar Association

Washington, DC (11/12/04)

**"Satanic Ritual Abuse"**

Tyndale University College and Seminary

Toronto, Canada (11/17/04)

**"Compliant Victim" "Typology of the Pedophile"**

National Center for Rule of Law at Ole Miss School of Law

Advanced Finding Words: Emerging Issues in Forensic Interviewing

Summit, Mississippi (12/2/04)

**"Internet Sex Crimes" "Cyber Pedophiles" and "Child Pornography"**

Oregon Association for the Treatment of Sex Abusers

Portland, Oregon (4/29/05)

**"Compliant Child Victims and Online Crimes Cases"**

Unsafe Havens II: Advanced Trial Advocacy for Prosecution of Online Crimes Against Children

American Prosecutors Research Institute

National Advocacy Center

Columbia, South Carolina (6/6/05)

**"Overview of Sexual Victimization of Children" and "Satanic, Occult, Ritualistic Crime"**

National Criminal Justice Command College

University of Virginia

Richmond, Virginia (8/5/05)

**"Satanic Ritual Abuse"**

Tyndale University College and Seminary

Toronto, Canada (10/12/05)

"Use of Education Expert Witnesses"

Unsafe Havens I: Advanced Trial Advocacy for Prosecution of Online Crimes Against Children

American Prosecutors Research Institute

Honolulu, Hawaii (12/1/05)

"Sexual Victimization of Children: A Behavioral Analysis"

Continuing Education Workshop in Forensic and Behavioral Criminology

Center for Psychological Studies

Nova Southeastern University

Fort Lauderdale, Florida (4/22-23/06)

"Overview of Sexual Victimization of Children"

National Criminal Justice Command College

University of Virginia

Richmond, Virginia

(8/4/06) (8/3/07) (8/1/08) (7/30/09) (8/4/11) (8/2/12) (8/7/13) (8/6/14) (8/6/15) (8/4/16)

"Child Pornography"

U.S. Conference of Catholic Bishops

Promise to Protect Seminar

Washington, DC (9/13/07)

"Compliant Child Victims"

American Academy of Forensic Sciences

Washington, D.C. (2/22/08)

"Defeating the Fantasy Defense"

Unsafe Havens II: Advanced Trial Advocacy for Prosecution of Technology Facilitated Crimes

Against Children

American Prosecutors Research Institute

National Advocacy Center

Columbia, South Carolina (2/2/10)

"Sexual Victimization of Children"

Graduate School Class on Psychological Profiling

George Washington University

Washington, DC (9/12/16)

## **Governmental Bodies**

"Criminal Personality Profiling"  
President's Task Force on Victims of Crime  
Washington, D.C. (10/15/82)

"Child Pornography and Prostitution"  
National Child Sexual Abuse Planning Team  
Chesapeake Institute and White House Staff  
Washington, D.C. (4/1/83)

"Sexual Exploitation of Children"  
White House Cabinet Staff Conference  
White House, Washington, D.C. (6/20/83)

"The Pedophile: A Law Enforcement Perspective"  
U.S. Attorney General's Task Force on Family Violence  
San Antonio, Texas (2/1/84)

"Pedophile Collectors"  
U.S. Department of Justice National Obscenity Seminar  
Washington, D.C. (5/17/84)

"Child Molesters"  
Bronx County Special Grand Jury  
Bronx, N.Y. (11/28/84)

"Missing and Exploited Children"  
White House Strategy Conference  
Washington, D.C. (4/3/85)

"Child Molesters"  
Missouri Association of Prosecuting Attorneys Annual Conference  
Lake of Ozarks, Missouri (5/22/85)

"Pornography"  
U.S. Attorney General's Commission on Pornography  
Washington, D.C. (6/19/85)

"Child Pornography"  
U.S. Attorney General's Commission on Pornography  
Miami, Florida (11/20/85)

"Sexual Victimization of Children"  
President's Child Safety Partnership  
Washington, D.C. (1/16/86)

**"Child Pornography"**  
Briefing for House of Representatives Legislative Assistants  
Quantico, Virginia (11/19/86)

**"Child Pornography"**  
U.S. Department of Justice Obscenity and Child  
Pornography Prosecution Conference  
Washington, D.C. (3/4/87)

**"Sexual Exploitation of Children"**  
Vermont United States Attorney's Office  
Rutland, Vermont (8/11-13/87)

**"Missing Children"**  
U.S. Attorney General's Advisory Board on Missing Children  
Los Angeles, California (7/30/87)

**"Sexual Exploitation of Children"**  
Mississippi United States Attorney's Office  
Jackson, Mississippi (11/4-5/87)

**"Sexual Exploitation of Children"**  
Virginia and Maryland United States Attorney's Offices  
Roanoke, Virginia (11/9/87)

**"Sexual Exploitation of Children"**  
California United States Attorney's Offices  
Sacramento and Newport Beach, California (3/1/88 & 3/3/88)

**"Maligned Investigator of Criminal Sexuality"**  
Advanced Conference on Federal Obscenity and Child  
Pornography Prosecution  
U.S. Department of Justice  
Washington, D.C. (5/23/88)

**"Typology of Child Molesters"**  
North Dakota Attorney General's Conference  
Bismarck, North Dakota (10/6/88)

**"Ritualistic Crime"**  
Texas Attorney General's Conference on Law Enforcement  
Austin, Texas (10/14/88)

"Sexual Abuse on Indian Reservations"  
Briefing for U.S. Senate Special  
Committee on Investigations  
Quantico, Virginia (10/17/88)

"Sexual Exploitation of Children"  
Western District U.S. Attorney's Office  
Batavia, New York (10/18-19/88)

"Overview of Sexual Exploitation of Children"  
Federal Crimes Against Children Conference  
U.S. Department of Justice  
Alexandria, Virginia (2/16/89)

"Child Sex Rings"  
Department of Defense Training Seminar  
Tyson's Corner, Virginia (9/15/89)

"Child Molester Typology"  
Department of Defense Polygraph Institute  
Ft. McClellan, Alabama (10/28/89)

"Child Sexual Abuse"  
White House Briefing  
Washington, D.C. (4/18/90)

"Child Pornography" and "Pedophile Profiles"  
Child Exploitation and Obscenity Seminar  
U.S. Department of Justice  
Portland, Oregon (8/28/91)

"Child Sexual Abuse"  
Royal Canadian Mounted Police Academy  
Vancouver, British Columbia, Canada (9/3/91)

"Sex Crimes"  
Pacific Training Initiative  
Agana, Guam (9/23-27/91)  
Pago Pago, American Samoa (4/19-24/92)

"Typology of Child Molesters" and "Overview of Sexual Victimization of Children"  
Attorney General's Task Force on Child Abuse Conference  
Durham, New Hampshire (4/9/93)

"Child Pornography and Computers"  
Briefing for U.S. Senate Staff  
Permanent Subcommittee on Investigation  
Washington, D.C. (12/15/93)

"Ritual Abuse of Children"  
San Diego County Grand Jury  
San Diego, California (1/94)

"Child Pornography"  
Maryland Governor's Conference on Child Abuse and Neglect  
Baltimore, Maryland (4/28/94)

"Sexual Victimization of Children"  
Interpersonal Violence and Serial Murder Seminar  
Finnish National Police  
Helsinki, Finland (11/7-11/94)

"Child Molester Typology"  
Maryland Governor's Conference on Child Abuse and Neglect  
Baltimore, Maryland (4/28/95)

"Children Used in Cult Rituals"  
Briefing of U.S. Senate Staff  
Committee on the Judiciary  
Washington, D.C. (1/17/96)

"Computer Generated Child Pornography"  
Briefing For U.S. Senate Staff  
Committee on the Judiciary  
Washington, D.C. (1/17/96)

"Understanding Child Molesters"  
Sex Offender Treatment Program  
U.S. Naval Consolidated Brig Miramar  
San Diego, California (1/24/96)

"Sex Offender Continuum"  
Maryland Governor's Conference on Child Sexual Abuse and Neglect  
Baltimore, Maryland (4/12/96)

"Sexual Victimization of Children"  
Royal Commission into the New South Wales Police Service  
Sydney, Australia (via video teleconference) (9/4/96)

"Profiling and Presenting Evidence about the Violent Offender"  
Office of Legal Education, Executive Office for U.S. Attorneys  
Albuquerque, New Mexico (3/12-14/97)

"Use of Computers in the Sexual Exploitation of Children"  
U.S.-Russian Seminar on International Trafficking of Woman and Children for Sexual  
Exploitation, U.S. Department of State  
Washington, D.C. (4/10/97)

"Use of Computers in the Sexual Exploitation of Children"  
Office of Criminal Justice Planning, Office of Attorney General  
Los Angeles, California (4/24/97)

"Sex Offenders and Social Policy: A National Perspective"  
Wisconsin Attorney General's Law Enforcement Conference  
Oshkosh, Wisconsin (5/21/97)

"Sex Offender Continuum" "Child Pornography: Questionable Cases"  
International Child Pornography Training Workshop  
U.S. Customs Service  
New Orleans, Louisiana (6/11-12/97)

"Child Pornography"  
South Carolina Office of the Attorney General Seminar  
Columbia, South Carolina (7/25/97)

"Sex Offender Continuum"  
Maryland Governor's Conference on Child Abuse and Neglect  
Baltimore, Maryland (11/5/97)

"The Sex Offender Profile"  
Canadian Conference on the Sexual Exploitation of Children  
Solicitor General of Canada  
London, Ontario, Canada (11/3/97)

"Sexual Exploitation of Children"  
New South Wales Police Academy  
Goulburn, Australia (2/10-12/98)

"Sex Offender Continuum" "Child Pornography: Questionable Cases"  
U.S. Postal Inspection Service Training  
Huntsville, Alabama (3/16-17/98)

"Crimes against Children"  
Higher Learning Academy, Russian Ministry of Internal Affairs  
Moscow, Russia (4/6-10/98)

"Psychology of Offenders"  
Child Exploitation Seminar  
Office of Legal Education, U.S. Department of Justice  
National Advocacy Center  
Columbia, South Carolina (5/6/98)

"Typology of Sex Offenders"  
Interpol Standing Working Party on Offenses Against Children  
Ottawa, Canada (10/8/98)

"Dynamics of Child Sexual Exploitation-Victims and Offenders"  
Internet Crimes Against Children Task Forces Training  
Office of Juvenile Justice and Delinquency Prevention  
U.S. Department of Justice  
Arlington, Virginia (11/1/98)

"Profiles of Sexual Predators"  
Regional Conference on Sexual Assault and Violence Against Women  
Suffolk County District Attorney's Office  
Central Islip, New York (11/12/98)

"Sexual Victimization of Children"  
National Crime Faculty Staff Development Conference  
Police Staff College  
Bramshill, United Kingdom (11/24/98)

"Computer Exploitation of Children"  
Satellite Conference for Federal Pre-trial and Probation Officers  
Federal Judicial Center, Court Education Division  
Washington, D.C. (12/3/98)

"Understanding Your Enemy"  
Child Safety and the Internet Policy Forum  
Governor's Office of Criminal Justice Planning  
Sacramento, California (3/5/99)

"Cyber 'Pedophiles'"  
Prosecuting Child Exploitation  
Naval Criminal Investigative Service  
Arlington, Virginia (3/10/99)

"Sex Offender Continuum"  
Investigating Sexual Assault Conference  
King County Department of Judicial Administration  
Seattle, Washington (3/24/99)

"Child Sex Rings"  
Maryland Governor's Conference on Child Abuse and Neglect  
College Park, Maryland (4/22/99)

"Computer Exploitation of Children"  
National Association of Crime Victim Compensation  
Albuquerque, New Mexico (5/4/99)

"Sexual Exploitation of Children"  
Combined Law Enforcement Coordinating Committee Conference  
Jackson, Wyoming (5/18/99)

"Analysis of Cyber 'Pedophiles'"  
Keynote Address at Computer Crimes Course  
U.S. Naval Justice School  
Norfolk, Virginia (7/28/99)

"Cyber 'Pedophiles': A Behavioral Perspective"  
Internet Crimes against Children Conference  
United States Attorney Eastern District of North Carolina  
Raleigh, North Carolina (10/3/00)

"Sexual Victimization of Children: A Law Enforcement Perspective"  
FBI Family Violence Symposium  
Leesburg, Virginia (8/3-8/03)

"Compliant Child Victim"  
Investigation and Prosecution of Child Sexual Exploitation Interagency Conference  
United States Attorney Middle District of Florida  
Tampa, Florida (9/30/03)

"Victim Issues"  
"Education and Prevention"  
Working Group on Online Sexual Exploitation of Children  
FBI Academy  
Quantico, Virginia (2/4-5/04)

"Ethics: The Importance of Objectivity in Child Exploitation Investigations and Prosecutions"  
"The Benefits of Understanding Offenders" & "Why Children are Compliant Victims"  
Investigation and Prosecution of Advanced Child Exploitation Cases  
Office of Legal Education – Executive Office for United States Attorneys  
National Advocacy Center  
Columbia, South Carolina (3/15-16/04)

"Compliant Child Victim"  
For Kids' Sake Conference  
United States Attorney Southern District of Indiana  
Indianapolis, Indiana (4/14/04)

"Sexual Victimization of Children: A Behavioral Analysis"  
Netherlands National Police Agency  
National Criminal Intelligence Department  
Zutphen, Netherlands (5/17-19/04)

"The Great Facilitator: History and Evolution"  
"Compliant Victim Issues"  
FBI International Online Child Sexual Victimization Symposium  
Leesburg, Virginia (6/7-10/04)

"Sexual Victimization of Children: A Behavioral Analysis"  
Multidisciplinary Team Training  
Oregon Department of Justice  
Eugene, Oregon (11/2/04)

"Child Exploitation Prosecutions: Professionalism and Ethical Issues"  
Investigation and Prosecution of Advanced Child Exploitation Cases  
Office of Legal Education – Executive Office for United States Attorneys  
National Advocacy Center  
Columbia, South Carolina (7/13/06)

"Child Sexual Abuse and Exploitation"  
2006 Statewide CASA Conference  
Virginia Department of Criminal Justice Services  
Williamsburg, Virginia (10/13/06)

"Sex Offenders: A Behavioral Analysis"  
2007 National Symposium on Sex Offender Management and Accountability  
U.S. Department of Justice  
Indianapolis, Indiana (7/27/07)

"Cyber Sex Offenders"  
Computer Crimes Course  
U. S. Naval Justice School  
Newport, Rhode Island (5/19/08)

"Expert Witness Testimony"  
FBI National Center for Analysis of Violent Crime  
FBI Academy  
Quantico, VA (5/28-29/08)

"Psychology of Offenders and Understanding the Grooming Process"  
Advanced Online Child Exploitation Seminar  
Office of Legal Education – Executive Office for United States Attorneys  
National Advocacy Center  
Columbia, South Carolina (7/28/08)

"Grooming and Seduction of Child Victims of Sexual Exploitation"  
2008 Project Safe Childhood National Conference  
Columbus, Ohio (9/23/08)

"The Witch Hunt, the Backlash, and Professionalism"  
Behind Closed Doors: Preventing, Responding to, Investigating and Prosecuting  
Sexual Abuse in Juvenile Justice Facilities  
Texas Juvenile Probation Commission  
Corpus Christi, Texas (12/12/08)

"Child Exploitation: Facts behind the Cases"  
Conference of 9<sup>th</sup> Circuit Chief District Judges and Lawyer Representatives  
Newport Beach, California (2/26/09)

"Cyber Sex Offenders"  
Computer Crimes Course  
U. S. Naval Justice School  
Newport, Rhode Island (8/3/09)

"Sexual Victimization of Children"  
FBI National Academy  
Quantico, Virginia (8/9/16)

## **CONGRESSIONAL TESTIMONY**

"Preventing the Abuse of Children in Child Care Facilities: Pedophile Characteristics"  
U.S. Senate  
Subcommittee on Juvenile Justice  
Washington, D.C. (4/11/84)

"Pedophile Collectors"  
U.S. Senate  
Subcommittee on Juvenile Justice  
Washington, D.C. (8/8/84)

"Use of Computers by Pedophiles"  
U.S. Senate  
Subcommittee on Security and Terrorism  
Washington, D.C. (6/11/85)

"Child Victims of Exploitation"  
U.S. House of Representatives  
Select Committee on Children, Youth and Families  
Washington, D.C. (10/31/85)

"Child Abduction"  
U.S. House of Representatives  
Committee on Government Operations  
Washington, D.C. (4/9/86)

"Child Abduction"  
U.S. House of Representatives  
Committee on the Judiciary, Subcommittee on Crime  
Washington, D.C. (9/14/95)

"The Aftermath of Waco - Changes in Law Enforcement"  
U.S. Senate  
Committee on the Judiciary  
Washington, D.C. (11/1/95)

## **CRIMINAL COURT TESTIMONY**

State of Maryland versus David Arnold Ratzow  
Criminal Case #82-844  
Prince George's County, Maryland  
11/10/82

State of Maryland versus Leo Joseph Hudson  
Criminal Case #83-94  
Prince George's County, Maryland  
6/13/83

State of New Hampshire versus Joseph Matheson  
Criminal Case  
Hillsborough County, New Hampshire  
11/17/83

State of Maryland versus Robert Anthony McCormick  
Criminal Case #83-924  
Prince George's County, Maryland  
2/15/84

Commonwealth of Virginia versus Ray Nardella  
Criminal Case  
Prince William County, Virginia  
2/11/85

State of Texas versus David Sonenschein  
Criminal Case  
Travis County, Texas  
4/15/85

United States versus Mervyn Harold Cross  
Criminal Case #84-192-CR-T-17 (A)  
Middle District of Florida  
Tampa, Florida  
3/11/86  
Affirmed - 928 F. 2d 1030 (11<sup>th</sup> Cir 1990)

State of Florida versus Ronald Mulholland  
Criminal Case #86-5821 CF  
Broward County, Florida  
7/31/86

United States versus Donald Dobson  
Criminal Case  
District of Massachusetts  
Boston, Massachusetts  
2/17/87

State of Pennsylvania versus Donald E. Ruby  
Criminal Case #86-165  
41st Judicial District  
Perry County, Pennsylvania  
3/19/87

State of New Jersey versus Margaret Kelley Michaels  
Criminal Case  
Essex County, New Jersey  
4/22/87

State of Maryland versus Thomas E. Zimmerman  
Criminal Case #32, 712-714  
Anne Arundel County, Maryland  
3/14/88

State of Alaska versus Frank Feichtinger  
Criminal Case #88-7011  
Anchorage, Alaska  
12/15/89

United States versus Michael Feaster  
Criminal Case #F 3313-89  
District of Columbia  
4/23/90

State of Maryland versus Eliseo Juco Miraflor, Jr.  
Criminal Case #89-1472  
Prince George's County, Maryland  
4/24/90

United States versus Ronald Steven Bowman  
Criminal Case #90-00094  
Western District of Virginia  
Roanoke, Virginia  
10/16/90

United States versus Larry Lane Bateman  
Criminal Case #92-62-01-D  
District of New Hampshire  
Concord, New Hampshire  
1/11/93

People versus Dale Akiki  
Criminal Case #CR 129395  
District Court  
San Diego, California  
11/8/93

State of Oklahoma versus Jimmy Ray Slaughter  
Criminal Case #CRF 92-92  
State District Court  
Oklahoma City, Oklahoma  
9/2/94

Commonwealth versus David Dickman  
Criminal Case #C.P. 93-07-3271  
First Judicial District of Pennsylvania  
Philadelphia, Pennsylvania  
5/9 & 17/95

State of Texas versus Eric Charles Nenno  
Criminal Case #689920  
208th State District Court  
Houston, Texas  
1/29/96  
Affirmed – 970 S.W. 2d 549 (Tex Crim App 1998)

United States versus Robert J. Hennie  
Criminal Case #1:95-CR-316  
Northern District of Ohio  
Akron, Ohio  
6/13/96

United States versus Richard Romero  
Criminal Case #96-CR-167  
Northern District of Illinois  
Chicago, Illinois  
6/17-18/97 & 10/6/97  
Affirmed - 189 F. 3d 576 (7<sup>th</sup> Cir 1999)

State of Texas versus Rudolph Edward Kos  
Criminal Case #F-97 32232  
Dallas, Texas  
3/30/98  
Affirmed - 15 S.W. 3d 633

United States versus Stephen Parrish  
Criminal Case #1:98-CR-036  
Northern District of Georgia  
Atlanta, Georgia  
5/13/98

United States versus Donald G. Stevens  
Criminal Case #A97-0121-01CR  
District of Alaska  
Anchorage, Alaska  
9/29/98

State of Texas versus Charles Richard Willits  
Criminal Case # 98-4725  
299th District Court of Travis County  
Austin, Texas  
10/14/99

United States versus Kenneth Long  
Criminal Case # 99-182  
District of Columbia  
11/10&12/99  
Affirmed - 328 F. 3d 655 (D.C. Cir. 2003)

United States versus Corporal Timothy D. Webb, U.S.M.C.  
General Court Martial  
Quantico, Virginia  
5/9/00

United States versus Sergeant Michael B. Hays, U.S. Army  
General Court Martial  
Grafenwoehr, Germany  
6/7/00  
Affirmed - 62 M.J. 158 (U.S. Armed Forces 2005)

United States versus Richard Bagarozy and Edward Federiwicz  
Criminal Case # 94-338  
District of New Jersey  
Newark, New Jersey  
9/8/00

New Mexico versus Lloyd Sperry  
Criminal Case# 0200100200  
Ninth Judicial District Court  
Clovis, New Mexico  
2/18/02

State of Texas versus Ronald Gene Means  
Cause # 9766-A, 9767-A  
87th Judicial District Court  
Groesbeck, Texas  
7/25/02

United States versus Scott Hayward  
Criminal Case # 02-63  
Western District of Pennsylvania  
Pittsburgh, Pennsylvania  
7/29/02  
Affirmed - 2004 WL 405936 (3<sup>rd</sup> Cir, 3/5/04)

State of Connecticut versus John Sorabella  
Docket # HHB-CR00-188041 & 188042  
Superior Court – New Britain Judicial District  
New Britain, Connecticut  
12/10/02  
Affirmed - 277 Conn.155 (Connecticut Supreme Court, 2/7/06)

Testimony  
Investigating Grand Jury  
Philadelphia, Pennsylvania  
5/16/03

United States versus Dwight York  
Criminal Case # 5:02-CR-27-HL  
United States District Court, Middle District of Georgia  
Macon, Georgia  
12/16/03

United States versus Dwight York  
Criminal Case # 5:02-CR-27-HL  
United States District Court, Middle District of Georgia  
Brunswick, Georgia  
1/7/04

Testimony  
Investigating Grand Jury  
Philadelphia, Pennsylvania  
4/1/04

United States versus Ronald Forrest  
Criminal Case # AW-03-0458  
United States District Court, District of Maryland  
Greenbelt, Maryland  
5/13/04  
Affirmed - 429 F. 3d 73 (4<sup>th</sup> Cir 2005)

United States versus John Jones  
Criminal Case #F-2851-03  
District of Columbia Superior Court  
Washington, DC  
6/2/04  
Affirmed – 990 A. 2d 970 (DC Court of Appeals 2010)

State of Illinois versus Cecil S. Sutherland  
Criminal Case No. 88-CF-73  
Circuit Court for the Second Judicial Circuit  
Jefferson County, Illinois  
6/4/04

United States versus Roderick Long  
Criminal Case #04-238M  
U.S. District Court for Western District of Pennsylvania  
Pittsburgh, Pennsylvania  
6/29/04

United States versus Raymond Davenport  
Criminal Case #EV 03-027-CR-01-Y/H  
U.S. District Court for Southern District of Indiana  
Evansville, Indiana  
7/19/04  
Affirmed - 149 Fed. Appx. 536 (7<sup>th</sup> Cir. 2005)

United States versus CPL Joel W. Pratt, U.S. Army  
General Court Martial  
Fort Drum, New York  
12/14/04

State of Florida versus Gervasio Torres, Jr.  
Criminal Case No. 03CF012679A02  
Circuit Court of the Fifteenth Judicial Court  
Palm Beach County, Florida  
4/12/05

State of Florida versus Gervasio Torres, Jr.  
Criminal Case No. 03CF012679A02  
Circuit Court of the Fifteenth Judicial Court  
Palm Beach County, Florida  
4/20/05  
Affirmed- 4<sup>th</sup> District Court of Appeal of Florida (1/7/09)

New Mexico versus Mark Rendleman  
Criminal Case No. D-0101-CR-99-824 & D-0117-CR-99-842  
First Judicial District Court  
Santa Fe, New Mexico  
7/22/05

United States versus Abraham Pearson  
Criminal Case #04-CR-340  
U.S. District Court for Northern District of New York  
Albany, New York  
6/5/06

United States versus LTJG Jay Coker, U.S. Coast Guard  
General Court Martial  
Boston, Massachusetts  
12/20/06

United States versus Caleb Griffee, U.S. Army  
General Court Martial  
Fort Drum, New York  
6/1/07

United States versus Steven Mitchell  
Criminal Case #4:07-CR-00105 JLH  
U.S. District Court for Eastern District of Arkansas  
Little Rock, Arkansas  
2/4/08

United States versus Kevin Eric Curtin  
Criminal Case #2:04-CR-0064 KJD  
U.S. District Court for Nevada  
Las Vegas, Nevada  
6/6/08

State of North Dakota versus Juan Godina  
Criminal Case #02-08-K-93  
Southeast Judicial District of North Dakota  
Valley City, North Dakota  
12/17/08

United States versus Rebecca Junkins  
Criminal Case #07-CR-00279  
Southern District of Alabama  
Mobile, Alabama  
3/12/09

United States versus Brian Burns  
Criminal Case #07-CR-556  
Northern District of Illinois  
Chicago, Illinois  
8/14/09

## **CIVIL COURT TESTIMONY**

United States versus Funds Held in the Name of Or for the Benefit of John Hugh Wetterer  
Civil Action #CV-91-0234  
Eastern District of New York  
Uniondale, New York  
5/23/97

CRM, CCM, and CAM versus The Assemblies of God, Inc. et al  
Civil Case #D98-3741  
District Court of Dallas County, Texas  
Dallas, Texas  
8/10/01

JL and TL, et al. versus Cleland Troy Trickel, et al.  
Civil Case No. 3KN-01-884  
Superior Court for State of Alaska,  
Kenai, Alaska  
1/26/04

T.R. versus Tannehill and The Boy Scouts of America, et al.  
Civil Case No. 0206-05750  
Multnomah County Circuit Court  
Portland, Oregon  
4/26/04

John and Jane Doe versus Brookhaven Country Club  
Civil Cause No. 04-10591  
95<sup>th</sup> Judicial District Court of Dallas County  
Dallas, Texas  
2/14/06

MC versus St Pius X Catholic Church, et al  
Civil Case #04-3827-K  
District Court of Dallas County  
Dallas Texas  
5/3/06

Carrie Atchison and Christopher Paige versus Matthew Maiello, et al.  
Civil Case #03-011141  
Supreme Court of the State of New York, County of Nassau  
Mineola, New York  
4/20/07

Louise B. Parker versus Fred Blackman  
Civil Action #CV-06-4264-HLS  
Circuit Court of Jefferson County, Alabama  
Birmingham, Alabama  
8/15/07

Kevin Fox and Melissa Fox versus Jeffrey Tomczak, et al  
U.S. District Court, Civil Case No. 04C-7309  
Northern District of Illinois  
Chicago, Illinois  
12/12-13/07

## **DEPOSITION TESTIMONY**

### **Deposition**

CRM, CCM, and CAM versus The Assemblies of God, Inc. et al

Civil Case #D98-3741

District Court of Dallas County, Texas

Washington, D.C.

5/9/01

### **Deposition**

M.A. and J.A., etc. versus Nova Southeastern University, Inc., etc

Civil Case #00-11941 (21)

Broward Circuit Court, Florida

Manassas, Virginia

8/17/01 and 8/31/01

### **Deposition**

Jane Doe versus Aramark Educational Resources, Inc.

Civil Case No. 3-01-0130

United States District Court for Middle District of Tennessee

Washington, D.C.

5/4/02

### **Deposition**

Cunningham versus City of Wenatchee et al.

U.S. District Court No. 2:01-cs-00058 WFN

Manassas, Virginia

6/25/02

### **Deposition**

Kennedy versus Clark County, et al.

U.S. District Court, Western District of Washington, No. C01-5631JKA

Manassas, Virginia

1/9/03

### **Deposition**

JL and TL, et al. versus Cleland Troy Trickel, et al.

Superior Court for State of Alaska, Case No. 3KN-01-884 Civil

Washington, D.C.

8/19/03

### **Deposition**

Nicholas, et al. versus Wyndham International, Inc., et al.

District Court of the Virgin Islands, Civil No. 2001/147-M/R

Washington, D.C.

9/25/03

Deposition  
JL and TL, et al. versus Cleland Troy Trickel, et al.  
Superior Court for State of Alaska, Case No. 3KN-01-884 Civil  
Fredericksburg, Virginia  
10/21/03

Deposition  
Tony Dean Arbaugh versus Board of Education  
U. S. District Court for Northern District of West Virginia Civil Action #2:01cv50  
Fredericksburg, Virginia  
4/15/04

Deposition  
JM (a minor), et al. versus Van Dyke  
Superior Court of New Jersey - Somerset County Docket No. SOM-L-1401-02  
Fredericksburg, Virginia  
8/04/04

Deposition  
McAuliff versus Lake Washington School District  
Superior Court of Washington for King County, Civil Action 03-2-26349-4  
Fredericksburg, Virginia  
09/24/04

Deposition  
D.W. versus St. Pius X Catholic Parish  
District Court of Dallas, Texas, Civil Case 01-7580  
Richmond, Virginia  
11/9/04

Deposition  
L. Roe versus Doe 1, et al.  
Superior Court of California, County of Alameda  
Civil Case No. RG03104998  
San Francisco, California  
12/21/04

Deposition  
State of Florida versus Gervasio Torres, Jr.  
Criminal Case No. 03CF012679A02  
Circuit Court of the Fifteenth Judicial Court  
Palm Beach County, Florida  
2/1/05

Deposition  
Bob Thatcher versus The Roman Catholic Bishop of Oakland  
Superior Court of California, County of Alameda  
Civil Case No. RG03085045  
San Francisco, California  
3/1/05

Deposition  
Local Church versus Harvest House Publishers  
District Court of Harris County, Texas  
Civil Case No. 2001-65993  
Richmond, Virginia  
4/1/05

Deposition  
John and Jane Doe versus Brookhaven Country Club  
District Court of Dallas County, Texas  
Civil Case No. 04-10591-D  
Fredericksburg, Virginia  
9/27/05

Deposition  
Jonathan Mizrack versus Boy Scouts of America  
Supreme Court of the State of New York  
Civil Case Index No. 110215/01  
New York, New York  
7/24/06

Deposition  
Nancy S. Tauck versus Peter F. Tauck  
Superior Court of Connecticut  
Judicial District of Stamford-Norwalk at Stamford  
Fredericksburg, Virginia  
12/6/06

Deposition  
John Doe 22 versus Archdiocese of Miami  
17<sup>th</sup> Judicial Circuit in and for Broward County, Florida  
Case No. 05-013361-CA-12  
Fredericksburg, Virginia  
1/9/07

Deposition

Kevin Fox and Melissa Fox versus Jeffrey Tomczak, et al

U.S. District Court, Northern District of Illinois, Civil Case No. 04C-7309

Fredericksburg, Virginia

11/2/07

Deposition

William M. Evans versus Erin Evans

Circuit Court of Fairfax County, CL No. 2007-9258

Fairfax, Virginia

12/19/07

## EXHIBIT C

## **Exhibit C: List of Relevant Incidents**

<b>Year (Press Report)</b>	<b>State/Province</b>	<b>City/County</b>	<b>Offender Name</b>	<b>Description</b>	<b>Source</b>
2016	TX	Cedar Park	Roel Anthony Vasquez	Indecent exposure to child in Target store (appears to have been in men's room)	<a href="#">Austin American Statesman</a>
2016	WA	Seattle	Unknown	Just after NDO goes into effect, man uses women's locker room at public pool	<a href="#">NY Daily News; King 5 News</a>
2016	VA	Prince William County	Richard Rodriguez	Man dressed as woman arrested for filming women at Potomac Mills Mall	<a href="#">NBC Washington</a>
2016	TN	Smyrna	William Ted Davis	Man arrested for filming in women's restroom at public park/softball complex	<a href="#">WKRN</a>

2016	CA	Fullerton	Jihwhoo Ahn	Man arrested for placing cell phone to record video in women's restroom on University campus	<a href="#">Orange County Register</a>
2016	CA	San Jose	Andrew Donahue	Man arrested for recording others in his bathroom	<a href="#">Mercury News</a>
2016	NJ	Pitman	Thomas Guzzi, Jr.	Man nabbed in child pornography ring sting operation also placed tablet computer in theater rehearsal space restroom	<a href="#">Courier-Post</a>
2016	WA	Colfax	Michael A. Novak	Man arrested for filming women in bathrooms in his home, their homes	<a href="#">KHQ</a>
2016	FL	Miami	Hajime Maruyana	Restaurant manager arrested for installing camera in women's restroom.	<a href="#">WPLG</a>

2016	OH	Perrysburg	Undisclosed	Junior high boy tapes junior high girl in school restroom; distributes video to others	<a href="#">Cleveland Plain Dealer</a>
2016	MD	Prince Georges County	Deonte Carraway	Volunteer teacher and choir leader directed children in sexually explicit videos filmed in school bathroom	<a href="#">WPGC</a>
2016	FL	Wilton Manors	Marek Amann	Man tapes women using his restroom	<a href="#">Local10 (ABC affiliate)</a>
2016	IN	Martinsville	Justin Carl Behnke	Former Chili's manager charged with videotaping 8 women changing clothes/using restroom	<a href="#">WBIW</a>
2016	OK	Logan County	James Curt Rose	Man videotapes 13-year-old taking a shower with cell phone (saw lens poking out through a sleeve that was hanging in bathroom)	<a href="#">KFOR</a>

2016	IA	Iowa City	Undisclosed	Police locate "person of interest" in connection with man videotaping woman while showering in residence hall	<a href="#">KCRG</a>
2016	PA	Lancaster	James Thomas Shoemaker	Man arrested after being caught hiding in stall of women's bathroom, taking photos of young girls	<a href="#">WGAL</a>
2016	ID	Ammon	Sean/Shauna Smith	Man dressed as woman accused of taking photos of women undressing in Target changing room	<a href="#">East Idaho News</a>
2016	CT	Stamford	Isaiah Johnson	Transvestite Johnson and two other transvestites arrested for luring special needs teen into bathroom and sexually assaulting him	<a href="#">The Hour</a>
2016	NY	Huntington	Jose Rivas	Dishwasher places cellphone camera in employee restroom	<a href="#">Bryan-College Station Eagle</a>

2016	LA	Baton Rouge	Michael Lee Jackson	Man arrested for placing mirror and cell phone under stall in women's restroom.	<a href="#">The Advocate</a>
2016	IL	Alton	Matthew Banks	Man arrested for photographing woman up her dress and watching group of children at swimming class (already registered sex offender)	<a href="#">KSDK</a>
2015	NJ	Lyndhurst	Mitchell Morreale	Former fire captain/youth football coach videotaped girls as they used his restroom during pool party	<a href="#">The Record</a>

2015	AL	Marshall County	David Barrow	Former girls' soccer coach pled guilty to human trafficking and producing pornography with minors. Used hidden cameras in locker room and restroom.	<a href="#"><u>WAFF</u></a>
2015	CA	Brea	Melcher Carillo Alvarado	Man arrested for placing hidden camera in Starbucks unisex bathroom	<a href="#"><u>NBC Los Angeles</u></a>
2015	Ont.	Toronto	Unknown	Two separate incidents of voyeurism in gender neutral restrooms cause U of T to retreat from hardline gender neutrality	<a href="#"><u>The Varsity</u></a>
2015	CA	La Habra	Unknown	Camera found in Del Taco restaurant restroom	<a href="#"><u>NBC Los Angeles</u></a>

2015	NY	New York	Sean Shaynak	Crossdressing high school teacher charged with preying on 6 female students.	<a href="#">NY Daily News</a>
2014	CA	Clairemont	Gregory Philip Schwartz	Schwartz dressed in a Barbie costume before entering a women's restroom and attempting to rape a female occupant.	<a href="#">NBC San Diego</a>
2014	PA	Halifax Township	Austin Christopher Wikels	Crossdresser accused of taking part in luring woman to hotel room and taking part in group sexual assault	<a href="#">Pennlive</a>
2014	AK	Anchorage	Travis Felder	Crossdressing man charged with sexual and other assault, burglary, etc.	<a href="#">ADN.com</a>

2013	CA	Palmdale	Jason Pomare	Man dressed as woman arrested for filming women in Antelope Valley Mall Macy's restroom	<a href="#">NBC Los Angeles</a>
2013	CA	San Bernadino County	Rodney Kenneth Petersen	Man dressed as woman arrested after attempting to take cell phone photos of women in women's-only areas of college campuses	<a href="#">LA Times</a>
2013	OK	Oklahoma City	Christopher Todd Gard	Man wearing only women's panties assaulted 8-year-old girl inside convenience store bathroom	<a href="#">News9</a>
2013	AR	Bergman	Carl Dahn	Man arrested for child pornography and internet stalking of child wearing women's clothing when police arrive	<a href="#">Harrison Daily</a>

2013	MI	Onsted	Sean Gossman	Crossdresser appears in court to face child pornography charges dressed as woman	<a href="#">ClickOnDetroit</a>
2013	OR	Portland	Michael Leroy Moore	Crossdresser accused of placing sexually explicit ad about little girl on Craigslist	<a href="#">Oregon Live</a>
2013	VA	Falls Church	Carlos Guillermo Suarez Diaz	Man dressed as woman sexually assaulted 17-year old girl	<a href="#">Washington Post</a>
2013	FL	Fort Myers	John Maatsch	Married man with master's degree and good job attacks woman in apartment, stabbing her three times. Later returns to scene dressed in women's clothing (plea deal for 15 year sentence)	<a href="#">nbc-2.com</a>

2013	Ont.	Toronto	Darren Cottrelle	Man dressed as woman arrested for using mirror to peer under bathroom stall	<a href="#">Toronto Star</a>
2012	Ont.	Toronto	Christopher Hambrook	Man claiming to be transgendered assaulted two women at shelters	<a href="#">Toronto Sun</a>
2012	WA	Everett	Taylor J. Buehler	Man in bra and wig found in women's restroom; later admitted to officers he was suspect in earlier voyeurism incident at Everett Community College	<a href="#">Seattle Post-Intelligencer</a>
2012	WA	Olympia	Undisclosed	45-year-old transgender college student with male genitalia exposes self in women's locker room and sauna	<a href="#">ABC</a>

2012	OH	Lisbon	Aaron L. LaGrand	Crossdressing man gained trust of Ohio family, then molested children	<a href="#">Review Online</a>
2012	CA	Thousand Oaks	Unknown	Man dressed as woman approaches children playing; exposes self to them.	<a href="#">CBS Los Angeles</a>
2011	OR	Milwaukie	Thomas Lee Benson	Convicted sex offender dressed as woman went into women's locker room at public pool and talked to several children before being chased down	<a href="#">Oregon Live</a>
2011	CA	La Mesa	Unknown	Middle-aged man dressed as woman enters women's restroom asking to shake hands with women	<a href="#">Patch.com</a>

2011	CA	Sacramento	Renell Thorp	Crossdressing man arrested for rape after home invasion	<a href="#"><u>CBS Local Sacramento</u></a>
2010	CA	Berkeley	Gregorio Hernandez	Man dressed as woman to access Berkeley locker room, used cell phone to photograph women	<a href="#"><u>Boston.com</u></a>
2010	GA	Duluth	Donnie Lee	Crossdressing man arrested for looking into apartment windows; second arrest	<a href="#"><u>WSBTV</u></a>
2010	GA	Calhoun	Norwood Smith Burnes	Man dressed as woman in Wal-Mart arrested for taking clothes off in front of children	<a href="#"><u>Northwest Georgia News</u></a>

2010	CO	Boulder	Wesley Francis Cox	Serial sex offender admits to "decades" of offenses including photographing teenagers, videotaping couples having sex and stealing women's panties	<a href="#">Daily Camera</a>
2009	CA	San Jose	Richard Rendler	Man dressed as woman arrested for wearing fake breasts and wig while loitering in women's restroom. Previously arrested on child molestation and indecent exposure charges	<a href="#">Mercury News</a>
2009	AR	North Little Rock	Scotty Vest	Man dressed as woman masturbates in public, attempts to lure 10 and 12 year old girls into restroom	<a href="#">Fox16</a>

2009	OK	Oklahoma City	Philip John Ortega	Crossdressing man exposes himself to woman on street	<a href="#">News9.com</a>
2008	IN	West Lafayette	Unknown	Man dressed as woman takes photos in women's restroom on Purdue campus (flip phone camera under stall door	<a href="#">Purdue University News</a>
2004	PA	Greensburg	Robert Domasky	Man dressed as cheerleader enters girls locker room at high school	<a href="#">Tribune-Review</a>

# EXHIBIT N

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOAQUIN CARCANO; PAYTON GREY  
MCGARRY; H.S., by her next friend and  
mother, KATHRYN SCHAFER; ANGELA  
GILMORE; KELLY TRENT; BEVERLY  
NEWELL; and AMERICAN CIVIL  
LIBERTIES UNION OF NORTH  
CAROLINA,

No. 1:16-cv-00236-TDS-JEP

*Plaintiffs,*

v.

PATRICK MCCRORY, in his official  
capacity as Governor of North Carolina;  
UNIVERSITY OF NORTH CAROLINA;  
BOARD OF GOVERNORS OF THE  
UNIVERSITY OF NORTH CAROLINA;  
and W. LOUIS BISSETTE, JR., in his  
official capacity as Chairman of the Board  
of Governors of the University of North  
Carolina,

*Defendants.*

**EXPERT OPINION OF SHERIFF TIM HUTCHISON (RETIRED)**

**Introduction**

I have been retained as an expert for the defense in this litigation to provide opinions relating to the public safety and privacy effects of what defendants describe as “GIBAPs”—“gender-identity”-based access policies for public facilities—and regarding the public safety and privacy implications of the North Carolina General Assembly’s response to GIBAPs in H.B.2. I have enclosed my Curriculum Vitae (attached as Exhibit A) as well. That document details my

education, qualifications, law enforcement training and experience in the public safety field. A list of materials I reviewed while making this opinion is attached as Exhibit B.

This is a preliminary report. As discovery is still underway, there may be a need for this report to be amended or supplemented.

#### **Law Enforcement and Public Safety Experience**

1. I have over 33 years of experience in Law Enforcement.
2. I began working at the Knox County Sheriff's Office January 5, 1975. I worked myself up through the ranks in the following positions:
  - Process Server
  - Corrections Officer
  - Patrolman
  - Detective
  - Sergeant- Traffic Division
  - Founding member Knox County Sheriff's Office S.W.A.T. Team
  - Lieutenant Patrol Division
3. I ran successfully for the Office of Sheriff in 1990. The voters of Knox County reelected me to that position four more times. I retired as sheriff in 2007 only after the Tennessee Supreme Court ruled that I was term limited.
4. While I was Sheriff I was active in law enforcement organizations in Tennessee (Tennessee Sheriffs Association) and nationally (American Correctional Association & National Sheriffs Association). I was appointed to sit on the National Institute of Justice's Cyber Crime task force and assisted that group in writing law enforcement field investigation books about investigating cybercrime. In 1998, I received the honor of being selected by my peers in the National Sheriff's Association as the National Sheriff of the Year.
5. While serving as Sheriff, I was the Chief Law Enforcement Officer of Knox County under state statute (TCA 38-3-102).
6. As Sheriff I was responsible for developing and implementing public safety policy for the entire county.
7. The City of Knoxville is in and is a part of Knox County. Knox County also is home to the University of Tennessee.
8. I was therefore responsible for setting public safety for 520 square miles and a County population of approximately 400,000.
9. Throughout my career I have been involved in training Law Enforcement Officers, Corrections Officers, and Process Officers in all aspects of law enforcement and correctional facility management.

10. While Sheriff, I continually worked to identify problem areas and changing criminal behavior patterns, and would change the Department to meet the public safety needs of Knox County citizens.
11. While I served as Sheriff, the Sheriff's Office had over 1000 Employees with over 450 Certified Police Officers. Over one-third of the force were women and minorities.
12. The annual budget while I was Sheriff was over \$55 million. I managed all the jails in Knox County and housed approximately 1000 inmates daily.
13. During my career I also planned and staffed security with the Secret Service for two Presidential visits by President Ronald Reagan and two visits by President George W. Bush. While I was on the Sheriff's Office S.W.A.T. Team, I was assigned to work at times providing security for dignitaries at the 1982 World's Fair here in Knoxville, TN.
14. I also managed the public safety response to several disasters in our community while Sheriff, some requiring the evacuation of thousands of residents from their homes.
15. After noting an increase in sex offenses, I began a Sex Offender Task Force which has been lauded by the Tennessee Bureau of Investigation. Ours was the first unit in the region to hire full-time sex crimes investigators rather than continue the common practice of assigning sex crimes investigations to ordinary detectives on a rotating basis.
16. The Knoxville Police Department and the State Department of Parole and Probation joined the Task Force after we established it, and continue to work together with the Sheriff's office to reduce sex offenses
17. I implemented several specialized units or initiatives while Sheriff of Knox County:
  - Began a POST Certified Police Academy which has graduated hundreds of Certified Policeman for Knox County and several other jurisdictions.
  - Began a Police Aviation Division with 6 Helicopters.
  - Began a Marine Patrol for the Tennessee River and surrounding lakes.
  - Began a Senior Citizens Awareness Network (SCAN), where volunteers for the Sheriff's Office went out daily checking on elderly persons living alone or shut-ins.
  - Began the Sheriff's Office first K-9 Division consisting of Patrol/Drug dogs and cadaver dogs. The cadaver dogs were sent by me to assist in New York City following the collapse of the World Trade Centers where they worked for over 2 weeks.
  - Began a Computer Crimes Unit.

- After seeing a need for Law Enforcement Officers in schools in the mid 1990's, I placed Certified Officers in all high schools and middle schools, and in many elementary schools. This program is still in place today.
  - Adjusted Patrol Zones with information from the Computer Crimes Unit.
  - Built a new multi-million dollar Records Management System to better track crimes and offenders.
  - Began a Bomb Squad and acquired 2 bomb robots.
  - Planned and built two jails while Sheriff. Construction costs were \$30 million for one facility and \$600,000 for the other.
  - Planned and built a Police Training Center consisting of class rooms, 50-point outdoor firing range and a 20-point indoor firing range.
  - Began a TEEN Academy.
  - Served on the Board of Emergency 911 Center Knox/Knoxville TN.
18. Served on the Board of the Boys and Girls Club East Tennessee
19. Served on the Tennessee Police Officers Standards and Training Commission as a Commissioner ("POST") from 1994 to 2002.
20. Past Chairman of the Tennessee POST Commission.
21. In 1998 I was selected as the National Sheriff of the Year by the National Sheriff's Association.
22. Award by the Consul General of Israel for Counter Terrorism Training and Implementation.
23. I worked on over 50 Homicides during my career, including sex offense homicides, with a Department solve rate of over 90%.
24. While Sheriff, I worked with our staff attorneys to write a new General Order Notebook (SOP) and updated it regularly to keep it current with changes in the law. We then trained our Officers to comply with those changes.
25. While Sheriff I started a Corrections Officer Basic School. Both this school and the Certified Police Academy exceeded the State minimums for training for Officers.
26. During my career I made hundreds of arrests, for everything from minor misdemeanor offenses to thefts and sex offenses to murder.
27. I am currently a Tennessee Licensed Private Investigator and work as a consultant and investigator for both plaintiffs and defendants in suits against government entities.

#### Education and Training

1. Tennessee Law Enforcement Training Academy
2. Walters State Community College (Associate Degree Criminal Justice)

3. University of Virginia, F.B.I. National Academy Session 157
4. In addition, I have attended hundreds of hours of specialized law enforcement schools and was certified as a Police trainer/instructor by the F.B.I and the Tennessee Peace Officers Standards and Training Commission (POST).
5. Counter – Terrorism Training in Israel
6. F.B.I. Certified Handgun Instructor
7. F.B.I. Certified Anti-Sniper
8. F.B.I. Certified Hostage Negotiator
9. F.B.I. Certified Police Instructor
10. Certified Handgun Instructor Tennessee POST Commission
11. Tennessee State Handgun Permit Instructor certified by the Tennessee Department of Safety
12. F.B.I. Certified Advanced Firearms Instructor
13. F.A.A. Licensed Helicopter Pilot (I flew helicopter rescue missions in North Carolina after Hurricane Floyd, in New Orleans the first 11 days following Hurricane Katrina, and in Lake Charles, LA following Hurricane Rita).
14. Certified as a Homeland Security Expert by American Academy of Forensics.

#### The North Carolina Controversy

1. In February 2016 the City of Charlotte, North Carolina passed an ordinance (7056) allowing individuals to use public facilities based solely on their self-declared “gender identity” and not their biological sex.
2. The North Carolina General Assembly convened in an extra session to address this new ordinance and the ramifications it had for the entire State of North Carolina.
3. Since I continue to be interested in and concerned about public safety, I kept up with the events in Charlotte when the City Council there voted to add “gender identity” to their antidiscrimination law. I also followed the North Carolina General Assembly as they moved to block the Charlotte Ordinance.
4. On March 23, 2016 the General Assembly passed a bill (H.B.2) which blocked the Charlotte Ordinance and prevents any municipality or state facility from passing similar laws in the future.
5. H.B. 2 also requires that all public agencies with multiple occupancy bathrooms or changing facilities must designate those facilities for use only by individuals based on their biological sex, being male or female as determined on a person’s birth certificate.
6. North Carolina Governor Patrick McCrory signed H.B.2 into effect the same day.
7. In May 2016 the United States Department of Justice wrote letters notifying all named Defendants that it had determined that the Defendants were not in compliance with federal laws (Title VII, Title IX and/or VAWA).

8. The Department of Justice demanded that North Carolina ensure that transgender persons were entitled to use multiple occupancy bathrooms and changing facilities based on their “gender identity,” and threatened to take enforcement action against North Carolina if the state refused to comply.
9. The United States Department of Justice and private plaintiffs working with the ACLU filed separate federal lawsuits against North Carolina officials and institutions. The plaintiffs claim that H.B.2 intentionally discriminates against the transgendered.
10. I have reviewed the Complaints in both the ACLU and DOJ cases and am aware that the plaintiffs claim that “gender identity” (which they define as someone’s “internal sense” of what gender they are) should be the only thing that matters in determining who can use which public facilities (restrooms, changing rooms, locker rooms, etc.). I am also aware that the U.S. Department of Education and Department of Justice have recently issued guidelines for schools receiving public funds in which they make the same argument.

### **OPINIONS AND BASIS FOR OPINIONS**

My opinion is based upon the 17 years I spent as the Chief Law Enforcement Officer in Knox County, Tennessee, and upon my experience as the primary public safety policy maker for the county while in that position. It is also based upon on my 33 total years of experience as a Certified Policeman, and on the law enforcement and public safety training I received during my law enforcement career. In addition, I have personally been on the scene of sexual assaults and have personally arrested and helped prosecute male sex offenders, and those experiences have helped develop my opinions as well.

I have also considered various materials in forming my opinions, including the Complaints in the captioned cases and several other documents. All material I considered in forming my opinions is listed in Exhibit B and is attached as an appendix to this report.

I have formed the following opinions regarding the public safety effects of policies like the Charlotte Ordinance and the DOJ/DOE guidance, and the passage of North Carolina General Assembly House Bill 2 on March 23, 2016:

#### **A. Gender-Identity-Based Access Policies (GIBAPs) Pose a Genuine and Serious Public Safety and Privacy Threat**

1. H.B. 2 was made necessary when the City of Charlotte passed its “gender identity” ordinance (“GIBAP”). Public restrooms are crime attractors, and have long been well-known as areas in which offenders seek out victims in a planned and deliberate

way. Access policies to restrooms based on “gender identity” create real and significant public safety and privacy risks, especially in women’s and children’s restrooms/dressing rooms. These incidents are already occurring. For example, shortly after Target Corporation announced that it would adopt a GIBAP for its stores, two men were caught filming women in the women’s dressing rooms. These criminal acts were committed in two different states, North Dakota and New Hampshire,

2. Specifically, GIBAPs increase the risk of the full range of sex offenses in and near public facilities, from relatively minor offenses like peeping and indecent exposure to major offenses like forcible rape.
3. The Charlotte Ordinance and other similar GIBAPs (like the recently-announced DOJ and DOE access policy for schools) consider only one side of the equation. But by focusing completely on the transgendered, they totally ignore the safety and privacy risks these policies inevitably create. The Charlotte Ordinance and other GIBAPs provide fertile ground for those individuals already seeking ways to commit abuses against women and children. For example, on July 13, 2016, police arrested a man who identified as a transgender woman, after he was discovered taking pictures of women changing clothes in a Target dressing room in Idaho.
4. Anyone with responsibility for setting public safety policy has to consider all sides of every public safety problem. For example, as Sheriff, I was constantly having to balance the jail population under crowded conditions while creating a safe environment for the citizens. People pushing for the adoption of GIBAPs are downplaying or dismissing serious and legitimate public safety concerns because they do not see (or maybe do not want to see) the problem.
5. Once you see all sides of the problem in this case, a law like H.B.2 makes perfect sense from a law enforcement and public safety perspective.
6. The North Carolina Sheriffs Association agrees. Just before the General Assembly passed H.B.2, the NCSA Executive Committee issued a unanimous statement indicating that they “support legislation that would overturn local ordinances that allow persons of one gender to use the restroom of the other gender.”

**B. Transgender Individuals Are Not the Source of This Threat**

7. The risks of GIBAPs do not come from transgender use of public facilities that do not line up with birth certificates. Rather, non-transgender male sex offenders who prefer female victims will use GIBAPs to obtain better access to their victims for different types of sex crimes.
8. In my experience, male sex offenders will take every opportunity they can to gratify their desires. They manipulate and abuse existing rules to gain access to their victims, and to keep their activities from being discovered whenever possible. Rape survivor Kaeley Triller captures the essence of my experiences and expectations perfectly: “They can’t be serious. Let me be clear: I am not saying that transgender people are predators. Not by a long shot. What I am saying is that there are countless deviant men in this world who pretend to be transgender as a means of gaining access to the people they want to exploit, namely women and children”. She further writes: “Don’t they know that one in every four little girls will be sexually abused during childhood, and that’s without giving predator’s free access to them while in the shower?” Kaeley Triller, “A Rape Survivor Speaks Out About Transgender Bathrooms,” *The Federalist*, November 23, 2015.

**C. GIBAPs Threaten Public Safety Because They Embolden Non-Transgender Male Sex Offenders Attracted to Women and Children**

9. Under GIBAPs like the Charlotte Ordinance (or like the DOJ/DOE policy in many educational settings), pedophiles, sex offenders and voyeurs would now have a free “ticket” to enter spaces that should be private and safe.
10. They would no longer fear the local laws that currently help keep them out of women’s public facilities.

**D. GIBAPs Will Increase Sex Offenses Ranging from “Nuisance” Offenses to Violent Sexual Assault**

11. By some conservative estimates, 96% of single-victim assaults are committed by males. And the overwhelming majority of male sex offenders prefer female victims.
12. Women and girls using public facilities are often in a vulnerable location and position. These areas are already a target for sex crime predators.
13. “Gender-identity”-based access policies would allow non-transgender men, who are now forbidden by law to go into a women’s restroom, to walk in and commit sex offenses without being as concerned about being confronted or arrested because of their apparent self-identified gender. There are numerous publicly-reported examples of that

happening in jurisdictions and facilities with GIBAPs in place. A partial list of such incidents is attached to this report as Exhibit B, but it is just the tip of the iceberg.

14. Sex offenders have to be good liars in order to avoid punishment, and they always have an excuse to explain what they are doing and why they are where they should not be.
15. My experience and training have taught me that many sex offenders start by peeping, stealing female under clothing, and other similar low-level offenses. But some start graduating to more serious sexual crimes and many move on to actual rape if they are not stopped early.
16. I have personally worked on complaints where an individual begins with lower-level sex crimes and escalates to rape/sexual assault over a period of a few years. For example, while I was a patrol officer, I started receiving multiple calls about a “peeping Tom” in a subdivision. We caught this individual numerous times. Then we started getting calls of exhibition by the same person, then eventually received rape complaints. This escalation of crime and increase in sexual assault violations took place over about a 3-year period. He was convicted and is still in prison. This person would target many of these people around women’s restroom/changing rooms, but even he was afraid of trespassing by going in those public facilities for fear of being caught.
17. Sadly, even if caught early, many offenders still will move up to actual rape, in my experience.
18. Like most criminals, sex offenders know that U.S. jails and prison systems are at or over capacity. As a result, sex offenders face less deterrence than they otherwise would face, since they know that, for the most part, they will not spend a day behind bars for anything other than a serious offense.
19. As crowding in correctional facilities creates an atmosphere of them not likely to be jailed for most offenses, it minimizes current laws that keep them from trying to gain entrance into women’s restroom and locker rooms.
20. Incentives for offending are also increasing along with improvements in technology. Small, easily hidden handheld electronic devices like smartphones have excellent cameras and video capture capabilities. The images captured by a sex offender on a modern smartphone are extremely high-quality, and can be uploaded to the internet almost instantly. This increases sex offenders’ interest in accessing women’s facilities.
21. These technological advances also increase the amount of potential harm GIBAPs cause women and children, both short term and long term.
22. With a GIBAP in place it opens the door to male sex offenders by handing them a target rich environment.

**E. Contentions that GIBAPs Have No Effect on Sex Offenses Are Highly Speculative and Almost Certainly Incorrect**

23. Some law enforcement personnel have claimed that the adoption of a GIBAP in their jurisdiction had no effect on the underlying rate of sex offenses. This is highly speculative and almost certainly untrue. In 2006 there were 300,000 college women raped. Among College women only 12% of rapes were reported to law enforcement.
24. According to the federal government's own statistics, only about 30% of sex crimes are reported overall. And many of those that *are* reported are serious sexual assaults. The reporting rate for so-called "nuisance offenses" (which are certainly not nuisances to the victims) is almost certainly even lower.
25. Many women do not report sex crimes for fear of being labeled in some way, because of the hassle of dealing with the court system, and/or because they do not want to testify publicly while having to face the sex offender again (even in the safety of the courtroom).
26. With a GIBAP in effect, sex crimes would increase, but an even larger percentage of those crimes would go unreported. In fact, children often delay reporting of sexual abuse until adulthood.
27. The decrease in reporting would not just be because victims and bystanders would be less certain that a violation had occurred. Most women are already afraid to report suspected crime or suspicious activity if they think that people will label them for making a report.
28. Even without formal GIBAPs in place, changing social norms have made people much less certain about gender issues, and more reluctant to report behavior that seems suspicious, like seeing a man in a women's facility. While it is good that society is becoming more accepting of different people, the fear of being accused of bigotry creates a public safety risk.
29. Non-transgender male sex offenders take advantage of every opportunity to increase their chances of successfully committing an offense. With a formal GIBAP in place, people will be even more worried about being accused of bias or bigotry if they report an offense.
30. Many of the offenses that are committed, including many that police do investigate—never result in charges being filed.
31. In some jurisdictions, if law enforcement doesn't charge an individual on a sex offense, they don't record it as a crime occurring. This further skews the reported statistics.
32. Some jurisdictions do not report crimes in their statistics if they are not solvable.

33. Though many women and young children would choose to leave a facility without reporting a sex offense, the scars from the crime would live on forever with these victims.
34. All of this explains in part why jurisdictions that have implemented GIBAPs might not see an increase in reported offenses.
35. Jurisdictions and organizations that have implemented GIBAPs also sometimes have incentives to understate their sex crime statistics, and will make reporting decisions designed to minimize the appearance of a sex offense problem. For example, colleges and universities interested in recruiting women for diversity purposes have an incentive to avoid reporting sex offenses whenever possible. In addition, if too many offenses are reported, enrollment would go down from parents not letting their daughters attend there.
36. Municipalities in which the police chief is an employee of an elected mayor may also underreport offenses, especially if accurate reporting would not line up with the mayor's politics.

**F. Current Laws Are Inadequate to Prevent Abuse of GIBAPs by Non-Transgender Male Sex Offenders**

37. In a world without GIBAPs, existing trespassing, indecent exposure, peeping and other laws deter at least some non-transgender male sex offenders (but not all) from entering women's facilities to commit offenses. It is really the only deterrent standing between the offenders entering the women's public facilities or not.
38. Some people who favor the adoption of GIBAPs claim that existing laws prohibiting trespassing, indecent exposure, peeping, and other sex offenses will keep problems from happening. That just isn't true. If someone could enter a public facility based entirely upon their "internal sense of gender," then law enforcement personnel, bystanders, and potential victims would have to be able to read minds in order to determine whether a man entering a women's facility was really transgender or was instead there to commit a sex offense.
39. To prove trespassing, you generally have to prove that the offender intentionally entered an area without permission. To prove trespassing based upon someone's presence in a public facility of the opposite sex, you have to prove that they were in fact the wrong sex, such that the signage outside the facility served as a "no trespassing" sign for that person. With a GIBAP in place, this becomes almost impossible to do, because the non-transgender male sex offender would simply have to claim that his "gender identity" was female to make successful prosecution difficult if not practically impossible.
40. And successful prosecution isn't the only problem. Another huge problem is that with a GIBAP in place, offenders aren't as likely to be observed by or reported to police in

the first place. Bystanders, victims, and even police will not have any reliable way of determining whether someone who appears to be male has a right to be in a female-only facility—even someone dressed in men’s clothing can claim a female “gender identity.”

41. The same is true for laws like peeping and indecent exposure. With a GIBAP in place, bystanders and victims will be less certain that offenders were actually getting sexual gratification from their acts. Is a biological male who displays his private parts to a woman while coming out of a women’s restroom stall a flasher or transgendered? What about the biological male whose eyes wander while in a women’s locker room?
42. Because the laws prohibiting indecent exposure and peeping also require proof of intent, it gets much harder to prove violations when a jurisdiction has adopted a GIBAP. And it gets much harder for victims and bystanders to be certain that an offense has been committed, and that their privacy has been violated.
43. While I was Sheriff, I saw an increasing number of sex crimes, and an increasing need for resources dedicated to sex crime investigations and sex offender monitoring. I started a Sex Crimes Task Force unit dedicating investigators assigned to that unit full time. Most agencies assign an investigator to sex crimes as a crime occurs and do not have those investigators working on that problem full time. They also carry a workload of other crime investigations. In the countless jurisdictions without the resources or political ability to create a dedicated sex crimes unit, sex offenses of all types will remain even more difficult to detect, prosecute, punish, and deter. This would make the problems caused by a GIBAP even worse.

#### **G. H.B.2 Was a Reasonable and Important Public Safety Response**

44. Laws like North Carolina H.B.2 are a reasonable and much needed response to the public safety issues created by policies like Charlotte’s ordinance and the DOJ and DOE guidance letters.
45. These laws create an objective baseline for facility access, as opposed to GIBAPs, which instead require law enforcement officers, potential victims, and bystanders to be mind-readers.
46. Consistent and clear definitions are extremely important to effective law enforcement. It is very important for law enforcement to have a clear definition of when someone who was born a biological male should be treated as a female. H.B.2 helps law enforcement and others who might be responsible for securing safe environment by creating an objective standard.

47. Under the Charlotte Ordinance or the DOJ/DOE policies, the standard for access determined entirely by the individual's "internal sense" of gender. This means that there are no objective characteristics that can be used to determine whether someone is accessing a facility for illegal purposes.
48. While increasing acceptance of gender differences is a good thing generally, changing social conventions make citizens less certain that offenses have occurred and less willing to report those offenses regardless.
49. H.B.2 reestablishes the objective criteria necessary to protect public safety and privacy in public facilities.
50. Specifically, Part I of H.B.2 makes it harder for non-transgender male sex offenders to gain access to female victims without getting caught, because it creates an objective standard and because it sends a signal to victims, law enforcers, and prosecutors that it is acceptable to report, investigate, and prosecute violators. This protects both public safety and the privacy rights of potential victims.
51. Part I also makes it clear that authorities (and sometimes even bystanders) have the right to keep people who are obviously biologically male out of women's and girls' facilities. This further reduces the risks of all types of sex crimes that might be committed in those facilities, protecting both the safety and the privacy of women and girls.
52. Even the federal government recognizes the need for these criteria in many contexts. For example, the State Department requires medical proof that an applicant is transitioning sex before it will issue a passport reflecting the applicant's preferred sex. And such passports are only valid for two years instead of the ordinary ten unless the applicant has completed the transition surgically.
53. The Bureau of Prisons has similar guidelines for the treatment of transgender inmates, and even the Department of Defense looks at objective criteria—not simply an Armed Forces member's "internal sense of gender" to determine how to treat them.

#### **H. H.B.2 Also Protects the Privacy Interests of Women and Children**

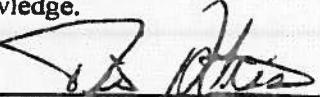
54. Women and children have a right to privacy and safety when going into a women's restroom or locker room.

55. GIBAPs increase the risk to our most vulnerable citizens: women and children in the confined and supposedly private spaces of women's restrooms, locker rooms, and other public facilities.
56. Some of the harms sex offense victims suffer from so-called "nuisance" offenses like peeping are really privacy harms. We have made peeping illegal because victims have a privacy right not to have their private parts viewed by members of the opposite sex involuntarily.
57. The same is true for offenses like indecent exposure, especially in the context of multi-user facilities. When indecent exposure happens in a public facility, part of the harm is that a woman or child is forced to see something they reasonably expected they would not have to see in such a location.

### **Conclusion**

28. I reserve the right to supplement or amend this report as additional statements, facts or information are received. My opinion is my own, and is not based on any compensation received in connection with this report. My fee includes review, preparation, deposition (4-hour minimum) and trial testimony and is \$200.00 per hour. Out-of-state per-diem is \$500.00 a day. Travel from portal to portal is \$100.00 hour. I have rendered expert opinions in the following cases over the last four years. All were in the U.S. District for the Eastern District of Tennessee:
  - Adkins v. Hensley, 2:14-cv-38 (E.D. Tenn.)
  - Silvers v. Unicoi County, 2:15-cv-84 (E.D. Tenn.)
  - Shelton v. Hensley, 2:14-cv-321 (E.D. Tenn.)
  - Tilson v. Unicoi County, 2:14-cv-2014 (E.D. Tenn.)

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



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Tim Hutchison  
5817 Attleboro Drive  
Powell, TN 37849  
865-659-5555

**Exhibit A: Curriculum Vitae of Tim Hutchison**

**Education:**

- Graduate West High School, Knoxville, Tennessee
- Graduate Tennessee Law Enforcement Academy, Nashville, Tennessee
- Graduate F.B.I. Academy, Quantico, Virginia
- Associates Degree Criminal Justice, Walters State College, Tennessee
- Counter Terrorism Training, Israel

**Experience:**

- Served 33 years at Knox County Sheriff's Office, Tennessee
- Served as:
  - o Process Server
  - o Jailer
  - o Detective
  - o Sergeant, Traffic Division
  - o Lieutenant, Patrol Division
  - o Certified Firearms Instructor/Use of Lethal Force Instructor
  - o Original Department S.W.A.T. Team Member (1978-86)
  - o FBI Certified Anti-Sniper
  - o FBI Certified Hostage Negotiator
  - o FBI Certified Instructor
  - o FBI Advanced Firearms Instructor
  - o FAA Licensed Helicopter Pilot
- Elected 5 terms as Sheriff of Knox County, TN (1990-2007)
  - o Department size approximately 1,005 staff
  - o Approximately 480 Certified Officers
  - o Prepared and managed annual budget of over \$55 million
  - o Served on Tennessee Peace Officers Standards and Training Commission (P.O.S.T.) (1994-2004)

- Served as Chairman of P.O.S.T Commission
- National Sheriff of the Year 1998- National Sheriff's Association.
- Certified as a Homeland Security Expert
- Managed Public Safety /Emergency Response to Several Disasters

**Accomplishments:**

- Returned over \$17 million saved to Knox County General Fund while Sheriff.
- As Sheriff, started numerous programs at little or no cost to taxpayers.
- S.W.A.T. Team member 1978-1986.
- Completed numerous Internal Affairs and Police Civil Liability Schools
- Worked on over 100 Homicides with a Department solve rate over 90%
- Attended multiple specialized police schools
- Acquired at no cost to tax payers 6 Helicopters and started a Police Aviation Unit
- Started a Marine Patrol Unit
- Planned and built 2 jails while Sheriff at cost of \$30 million and \$600,000
- Planned and built a Training Center consisting of class rooms, 50- point outdoor range and a 20-point indoor range using inmate labor and drug fine money to save tax dollars
- Started a K-9 unit with drug/patrol and cadaver dogs
- Started a Sex Offender Task force which was lauded by the T.B.I.
- Started a computer crimes unit
- Secured over \$6.9 million in Federal Grants
- Started a Tennessee State P.O.S.T. Certified Police Academy that has graduated hundreds of Certified Police Officers for numerous agencies.
- Started a Citizens Academy
- Implemented a Chaplain's Corps
- Started the S.C.A.N. Unit (Senior Citizen Awareness Network) which consists of volunteers checking on elderly citizens' wellbeing and aids neighborhood watch
- Started a TEEN Academy
- Placed Police Officers in all High Schools, Middle Schools and most Elementary Schools
- Implemented a dialogic phone system to notify citizens of dangers in their area
- Adjusted patrol zones to reduce response time and combat crimes based upon statistical analysis

- Coordinated Security for 2 visits by former President Ronald Reagan and 2 visits by former President George W. Bush
- Started a bomb squad and acquired 2 bomb robots
- Recognized by the Consul General of the State of Israel in a special ceremony for counter-terrorism training.

**Other Experience:**

- Licensed general contractor- residential and commercial since 1973
- Worked construction/ disaster relief Tuscaloosa, Alabama-2011
- Worked construction/ disaster relief Joplin, Missouri-2011
- Licensed private investigator and consultant retained by plaintiffs and defendants in suits against government entities

Additional information at [www.timhutchison.net](http://www.timhutchison.net)

Tim Hutchison 865-659-5555

[sheriff@nxs.net](mailto:sheriff@nxs.net)

Exhibit B: Documents Reviewed By Tim Hutchison

1. Complaint, U.S. v. North Carolina, et al., No. 1:16-cv-00425-TDS-JEP
2. Complaint, Joaquin Carcaño et al. v. North Carolina, et al., No. 1:16-cv-00236-TDS-JEP
3. List of Publicly-Reported Incidents (attached as Exhibit C)
4. Expert Declaration of Aran C. Mull
5. North Carolina House Bill 2
6. U.S. DOE Policy and Practices for Supporting Transgender Students
7. North Carolina Sheriff's Association Executive Committee Letter of Support NC HB-2
8. U.S DOD Directive-type Memorandum 16-005 "Military Service of Transgender Service Members"
9. NCAA Inclusion of Transgender Student Athletes
10. Article Idaho July 13, 2016 "Transgender Person Arrested For Taking Pictures Of Woman in Target Dressing Room", charged with a Felony. Daily Caller
11. Article from rape survivor Kaeley Triller, Published 11-2015, The Federalist
12. Article Bedford, New Hampshire, July 1, 2016 " Man arrested after allegedly filming girls in Target dressing room" Lifesite
13. Article Huffington Post 2015, "University of Toronto Dumps Transgender Bathrooms After Peeping Incidents"
14. Article Bismarck, N.D. June 16, 2016 "Teen girl reports dressing room peeper at Target" Forum News Service
15. Article February 26, 2014, Toronto Sun, "Predator Who Claimed To Be Transgender Declared Dangerous Offender"
16. U.S. DOJ Crime Statistics
17. Drug – Facilitated, Incapacitated, and Forcible Rape: A National Study, 2007
18. U.S. State Department Policy " Gender Transition Applications"
19. Canadian Center for Child Protection, "Child Sexual Abuse-It's Your Business", November 2012
20. Article 2016 Texas, Austin American States, Indecent Exposure to a Child in Target Store

- 21.2016 Washington, Daily News KING 5, Man Goes Into Women's Locker Room at Public Pool (two separate instances) While Young Girls Changing After Transgender Law Passed
  - 22.Virginia, 2016, NBC Washington, Man Arrested Dressed as Woman Filming Women in Shopping Mall
  - 23.2016, Tennessee, WKRN, Man arrested for filming in women's restroom at public park
  - 24.2016, California, Orange County Register, Man arrested for placing cellphone to record video in women's restroom at University
  - 25.2016, California, Mercury News, Man arrested for recording others in bathroom
  - 26.2016, Florida, WPLG, Restaurant manager arrested for installing camera in women's restroom
- 2016, Ohio, Cleveland Plain Dealer, Junior high boy tapes junior high girl in school restroom, distributes video to others

Exhibit C: List of Publicly-Reported Incidents

Year (Press Report)	State/Province	City/County	Offender Name	Description	Source
2016	TX	Cedar Park	Roel Anthony Vasquez	Indecent exposure to child in Target store (appears to have been in men's room)	Austin American Statesman
2016	WA	Seattle	Unknown	Just after NDO goes into effect, man uses women's locker room at public pool	NY Daily News; King 5 News
2016	VA	Prince William County	Richard Rodriguez	Man dressed as woman arrested for filming women at Potomac Mills Mall	NBC Washington
2016	TN	Smyrna	William Ted Davis	Man arrested for filming in women's restroom at public park/softball complex	WKRN
2016	CA	Fullerton	Jihhwoo Ahn	Man arrested for placing cell phone to record video in women's restroom on University campus	Orange County Register
2016	CA	San Jose	Andrew Donahue	Man arrested for recording others in his bathroom	Mercury News
2016	NJ	Pitman	Thomas Guzzi, Jr.	Man nabbed in child pornography ring sting operation also placed tablet computer in theater rehearsal space restroom	Courier-Post
2016	WA	Colfax	Michael A. Novak	Man arrested for filming women in bathrooms in his home, their homes	KHQ
2016	FL	Miami	Hajime Maruyana	Restaurant manager arrested for installing camera in women's restroom.	WPLG
2016	OH	Perrysburg	Undisclosed	Junior high boy tapes junior high girl in school restroom; distributes video to others	Cleveland Plain Dealer
2016	MD	Prince Georges County	Deonte Carraway	Volunteer teacher and choir leader directed children in sexually explicit videos filmed in school bathroom	WPGC
2016	FL	Wilton Manors	Marek Amann	Man tapes women using his restroom	Local10 (ABC affiliate)
2016	IN	Martinsville	Justin Carl Behnke	Former Chili's manager charged with videotaping 8 women changing clothes/using restroom	WBW
2016	OK	Logan County	James Curt Rose	Man videotapes 13-year-old taking a shower with cell phone (saw lens poking out through a sleeve that was hanging in bathroom)	KFOR

Exhibit C: List of Publicly-Reported Incidents

2016	IA	Iowa City	Undisclosed	Police locate "person of interest" in connection with man videotaping woman while showering in residence hall	<u>KCRG</u>
2016	PA	Lancaster	James Thomas Shoemaker	Man arrested after being caught hiding in stall of women's bathroom, taking photos of young girls	<u>WGAL</u>
2016	ID	Ammon	Sean/Shauna Smith	Man dressed as woman accused of taking photos of women undressing in Target changing room	<u>East Idaho News</u>
2016	CT	Stamford	Isaiah Johnson	Transvestite Johnson and two other transvestites arrested for luring special needs teen into bathroom and sexually assaulting him	<u>The Hour</u>
2016	NY	Huntington	Jose Rivas	Dishwasher places cellphone camera in employee restroom	<u>Bryan-College Station Eagle</u>
2016	LA	Baton Rouge	Michael Lee Jackson	Man arrested for placing mirror and cell phone under stall in women's restroom.	<u>The Advocate</u>
2016	IL	Alton	Matthew Banks	Man arrested for photographing woman up her dress and watching group of children at swimming class (already registered sex offender)	<u>KSDK</u>
2015	NJ	Lyndhurst	Mitchell Morreale	Former fire captain/youth football coach videotaped girls as they used his restroom during pool party	<u>The Record</u>
2015	AL	Marshall County	David Barrow	Former girls' soccer coach pled guilty to human trafficking and producing pornography with minors. Used hidden cameras in locker room and restroom.	<u>WAFF</u>
2015	CA	Brea	Melcher Carillo Alvarado	Man arrested for placing hidden camera in Starbucks unisex bathroom	<u>NBC Los Angeles</u>
2015	Ont.	Toronto	Unknown	Two separate incidents of voyeurism in gender neutral restrooms cause U of T to retreat from hardline gender neutrality	<u>The Varsity</u>
2015	CA	La Habra	Unknown	Camera found in Del Taco restaurant restroom	<u>NBC Los Angeles</u>
2015	NY	New York	Sean Shaynak	Crossdressing high school teacher charged with preying on 6 female students.	<u>NY Daily News</u>
2014	CA	Clairemont	Gregory Philip Schwartz	Schwartz dressed in a Barbie costume before entering a women's restroom and attempting to rape a female occupant.	<u>NBC San Diego</u>

Exhibit C: List of Publicly-Reported Incidents

2014	PA	Halifax Township	Austin Christopher Wikels	Crossdresser accused of taking part in luring woman to hotel room and taking part in group sexual assault	<a href="#">Pennlive</a>
2014	AK	Anchorage	Travis Felder	Crossdressing man charged with sexual and other assault, burglary, etc.	<a href="#">ADN.com</a>
2013	CA	Palmdale	Jason Pomare	Man dressed as woman arrested for filming women in Antelope Valley Mall Macy's restroom	<a href="#">NBC Los Angeles</a>
2013	CA	San Bernardino County	Rodney Kenneth Petersen	Man dressed as woman arrested after attempting to take cell phone photos of women in women's-only areas of college campuses	<a href="#">LA Times</a>
2013	OK	Oklahoma City	Christopher Todd Gard	Man wearing only women's panties assaulted 8-year-old girl inside convenience store bathroom	<a href="#">News9</a>
2013	AR	Bergman	Carl Dahn	Man arrested for child pornography and internet stalking of child wearing women's clothing when police arrive	<a href="#">Harrison Daily ClickOnDetroit</a>
2013	MI	Onsted	Sean Gossman	Crossdresser appears in court to face child pornography charges dressed as woman	<a href="#">Oregon Live</a>
2013	OR	Portland	Michael Leroy Moore	Crossdresser accused of placing sexually explicit ad about little girl on Craigslist	<a href="#">Washington Post</a>
2013	VA	Falls Church	Carlos Guillermo Suarez Diaz	Man dressed as woman sexually assaulted 17-year old girl	<a href="#">Oregon Live</a>
2013	FL	Fort Myers	John Maatsch	Married man with master's degree and good job attacks woman in apartment, stabbing her three times. Later returns to scene dressed in women's clothing (plea deal for 15 year sentence)	<a href="#">nbc-2.com</a>
2013	Ont.	Toronto	Darren Cottrell	Man dressed as woman arrested for using mirror to peer under bathroom stall	<a href="#">Toronto Star</a>
2012	Ont.	Toronto	Christopher Hambrook	Man claiming to be transgendered assaulted two women at shelters	<a href="#">Toronto Sun</a>
2012	WA	Everett	Taylor J. Buehler	Man in bra and wig found in women's restroom; later admitted to officers he was suspect in earlier voyeurism incident at Everett Community College	<a href="#">Seattle Post-Intelligencer</a>
2012	WA	Olympia	Undisclosed	45-year-old transgender college student with male genitalia exposes self in women's locker room and sauna	<a href="#">ABC</a>

**Exhibit C: List of Publicly-Reported Incidents**

2012	OH	Lisbon	Aaron L. LaGrand	Crossdressing man gained trust of Ohio family, then molested children	<a href="#">Review Online</a>
2012	CA	Thousand Oaks	Unknown	Man dressed as woman approaches children playing; exposes self to them.	<a href="#">CBS Los Angeles</a>
2011	OR	Milwaukee	Thomas Lee Benson	Convicted sex offender dressed as woman went into women's locker room at public pool and talked to several children before being chased down	<a href="#">Oregon Live</a>
2011	CA	La Mesa	Unknown	Middle-aged man dressed as woman enters women's restroom asking to shake hands with women	<a href="#">Patch.com</a>
2011	CA	Sacramento	Renell Thorp	Crossdressing man arrested for rape after home invasion	<a href="#">CBS Local Sacramento</a>
2010	CA	Berkeley	Gregorio Hernandez	Man dressed as woman to access Berkeley locker room, used cell phone to photograph women	<a href="#">Boston.com</a>
2010	GA	Duluth	Donnie Lee	Crossdressing man arrested for looking into apartment windows; second arrest	<a href="#">WSBTV</a>
2010	GA	Calhoun	Norwood Smith Burnes	Man dressed as woman in Wal-Mart arrested for taking clothes off in front of children	<a href="#">Northwest Georgia News</a>
2010	CO	Boulder	Wesley Francis Cox	Serial sex offender admits to "decades" of offenses including photographing teenagers, videotaping couples having sex and stealing women's panties	<a href="#">Daily Camera</a>
2009	CA	San Jose	Richard Rendler	Man dressed as woman arrested for wearing fake breasts and wig while loitering in women's restroom. Previously arrested on child molestation and indecent exposure charges	<a href="#">Mercury News</a>
2009	AR	North Little Rock	Scoty Vest	Man dressed as woman masturbates in public, attempts to lure 10 and 12 year old girls into restroom	<a href="#">Fox16</a>
2009	OK	Oklahoma City	Philip John Ortega	Crossdressing man exposes himself to woman on street	<a href="#">News9.com</a>
2008	IN	West Lafayette	Unknown	Man dressed as woman takes photos in women's restroom on Purdue campus (flip phone camera under stall door	<a href="#">Purdue University News</a>
2004	PA	Greensburg	Robert Domasky	Man dressed as cheerleader enters girls locker room at high school	<a href="#">Tribune-Review</a>

# EXHIBIT O

## UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,

Plaintiffs,

v.

STATE OF NORTH CAROLINA; PATRICK MCCRORY, in his official capacity as Governor of North Carolina; NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY; UNIVERSITY OF NORTH CAROLINA; AND BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA,

Defendants,

and

PHIL BERGER, President Pro Tempore of the North Carolina Senate; TIM MOORE, Speaker of the North Carolina House of Representatives,

Intervenor-Defendants.

Case No. 1:16-CV-00425-TDS-JEP

### Declaration of Y.K.

I, Y.K., declare as follows:

1. I am a member of North Carolinians for Privacy (NCFP).

2. I have personal knowledge of the events giving rise to this lawsuit, and I make this

declaration based on my personal knowledge.

3. I am over the age of eighteen.

4. I am the parent of minor children A.K., C.K., and B.K.

5. A.K was enrolled in a school within the Charlotte-Mecklenburg School System last school year and is currently accepted to and plans to attend Queens Grant High School in the 2016-2017 school year.

6. The Charlotte-Mecklenburg School System implemented a policy during the summer of 2016 that ignored governing state law and permitted students who professed a gender identity which did not match their sex to access school facilities designated for the opposite sex, including showers, locker rooms, restrooms, and changing facilities, as well as lodging facilities while traveling. The school district did this in order to comply with the DOJ/DOE Title XI rule.

7. While A.K. was enrolled in the Charlotte-Mecklenburg School System, he was required to change clothes at school for curricular activities. This required him to undress in a large open single-sex locker room. No private changing stalls were available in the locker room.

8. A.K. got anxious and uncomfortable at the thought of possibly having to undress in front of a member of the opposite sex. In order to protect his privacy rights and alleviate the tremendous anxiety and discomfort he was experiencing, we decided to transfer him to Queens Grant High School, which we believe does not currently comply with the DOJ/DOE Title XI rule. In order to get A.K. to his new high school we have to expend additional funds.

9. C.K. currently attends a middle school within the Charlotte-Mecklenburg School System. She is required to change clothes at school for curricular activities, which includes undressing in front of other students within a large open single-sex locker room.

10. She is not aware of any private single-stall changing facilities. But even if those were available, she would feel ostracized from the rest of her peers by being required to change away from the rest of the girls in order to avoid undressing in front of a male or seeing a male undress in front of her.

11. She experiences anxiety, discomfort, and embarrassment at the thought of having to change in front of a boy or a man, and the fact that a male may profess a female gender identity does

not reduce her anxiety. She also fears that some men may profess a female identity as a pretense to access the locker room where she is changing.

12. C.K. has been afraid and anxious about returning to school this year because of the school system's new policy regarding sex-specific restrooms, locker rooms, and changing facilities. Her anxiety has been slightly allayed because the new policy is currently on hold as a result of a recent Supreme Court ruling, but nonetheless the thought that she will have to undress in the presence of males, and be subject to males undressing in front of her, once that policy goes back into effect, is deeply distressing to her.

13. We applied to have C.K. move to a tuition-free school that protects her privacy and does not permit students of the opposite sex to share multi-user locker rooms, showers, or restrooms, or living facilities while traveling. But she was waitlisted for enrollment, and we cannot, without experiencing great financial hardship, afford to enroll her in a private school that does not receive funds subject to the DOJ/DOE Title IX rule.

14. B.K. attends an elementary school within the Charlotte Mecklenburg School System.

15. He uses the restroom at school and feels anxious and uncomfortable at the thought that once the school's new policy goes into effect, he may encounter a member of the opposite sex in the restrooms at school. B.K. is confused and anxious about this.

16. As with C.K., we applied to have B.K. move to a tuition-free school that protects his privacy and does not permit students of the opposite sex to share multi-user restrooms and changing facilities. But he also was waitlisted for enrollment, and we cannot, without experiencing great financial hardship, afford to enroll B.K. in a private school that does not receive funds subject to the DOJ/DOE Title IX rule.

17. I am a Christian and teach my children that boys and girls are uniquely made, that God designed them differently, and that it would violate our religious beliefs about modesty for any of them to undress, shower, or use the restroom in the presence of a member of the opposite sex. My children share those same beliefs.

18. I also believe that it is my duty as a parent to train my children in accord with my religious beliefs and to ensure that their privacy is not violated.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 16, 2016.

Y.K.  
Y.K.

# EXHIBIT P

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

UNITED STATES OF AMERICA,

Plaintiffs,

v.

STATE OF NORTH CAROLINA; PATRICK MCCRORY, in his official capacity as Governor of North Carolina; NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY; UNIVERSITY OF NORTH CAROLINA; AND BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA,

Defendants,

and

PHIL BERGER, President Pro Tempore of the North Carolina Senate; TIM MOORE, Speaker of the North Carolina House of Representatives,

Intervenor-Defendants.

Case No. 1:16-CV-00425-TDS-JEP

**Declaration of D.H. (parent of minor children D.H. and S.H.)**

I, D.H., declare as follows:

1. I am a member of North Carolinians for Privacy (NCFP).
2. I have personal knowledge of the events giving rise to this lawsuit, and I make this declaration based on my personal knowledge.
3. I am over the age of eighteen.
4. I am the parent of minor children D.H. and S.H.
5. D.H. attends a high school within the Union County Public School System.

6. D.H. participates in school-related sports activities and uses the locker rooms to change clothes at school.

7. D.H. is anxious and uncomfortable at the thought of undressing in front of a member of the opposite sex, or being exposed to an undressed member of the opposite sex, regardless of whether that person professes a different gender identity.

8. If D.H.'s school ultimately complies with the DOJ/DOE Title XI rule, it would cause D.H.'s anxiety and distress to increase exponentially. That would force me to take steps, at considerable expense and inconvenience, to remove D.H. from the school in which D.H. is currently enrolled.

9. S.H. also attends a high school within the Union County Public School System.

10. S.H. participates in school-related sports activities and is required to use the locker rooms to change clothes at school.

11. S.H., like D.H., is anxious and uncomfortable at the thought of undressing in front of a member of the opposite sex, or being exposed to an undressed member of the opposite sex, regardless of whether that person professes a different gender identity.

12. S.H. is particularly anxious because she has encountered a male in a public restroom in the past. She was very unsettled by the experience and hid in a stall until the person left.

13. If S.H.'s school implements policies conforming to the DOJ/DOE Title XI rule, it would cause S.H.'s anxiety and distress to increase exponentially. That would force me, as with D.H., to take steps, at considerable expense and inconvenience, to remove S.H. from her school.

14. I am a Christian, and as such, I teach my children that boys and girls are different, and that they are made the way they are by God for a reason. I also have conveyed to them that it would violate our religious beliefs about modesty for them to undress, shower, or use the restroom

in the presence of a member of the opposite sex. They believe the same way I do about these subjects.

15. As their parent, I believe it is my task and calling to train my children according to our religious faith and to ensure that they are safe and protected at all times. This includes protecting their right to privacy.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 17<sup>th</sup>, 2016, at Matthews, North Carolina.

D.H.  
D.H.

# EXHIBIT Q

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF NORTH CAROLINA; PATRICK MCCRORY, in his official capacity as Governor of North Carolina; NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY; UNIVERSITY OF NORTH CAROLINA; AND BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA,

Defendants,

and

PHIL BERGER, President Pro Tempore of the North Carolina Senate; TIM MOORE, Speaker of the North Carolina House of Representatives,

Intervenor-Defendants.

Case No. 1:16-CV-00425-TDS-JEP

**DECLARATION OF S.H.**

I, S.H., declare the following:

1. I make this declaration based on my personal knowledge.
2. I will be a freshman student this upcoming academic year at a private school in Illinois.
3. I previously attended a public middle school in Illinois.
4. I am 14 years of age.

5. My former public middle school feeds into a public high school which permits males into female restrooms, based upon whether they profess a female gender identity. The high school district adopted this policy a couple of years ago, without notifying the parents of this change. The school district also let one student have access to locker rooms formerly reserved for the opposite sex.

6. During my time in middle school, I was regularly required, while taking physical education classes, to change from my school clothes into appropriate attire for the planned physical activity.

7. The changing areas contained no private stalls and consisted of an open setting where we had to change. So there were times when some girls could and did see other girls partially undressed in the locker rooms.

8. As with all other students, I also regularly used the restrooms as needed throughout the day.

9. From kindergarten to 8<sup>th</sup> grade I had gone to public school and my parents preferred to keep me in public school for high school. I had always thought, since I was little, that unless we moved I would go to the public high school where we lived.

10. My parents decided to put me in private school because they saw the locker room and restroom policy as a threat.

11. The idea of permitting a person with male anatomy—regardless of whether he identifies as a girl—in girls' locker rooms, shower and changing areas, and restrooms makes me extremely uncomfortable and makes me feel unsafe as well.

12. Even the idea that a boy or man is allowed in those areas makes me anxious and fearful, regardless of whether I ever encounter them in any of those places.

13. I feel unsafe because I am concerned that a boy or a man can access the girls' facilities by just professing a female identity, and that would allow them to take advantage of the school's policies in order to see me and my friends as we have to undress for school classes. They could take pictures of us with their phones and then post them to the internet.

14. I would feel especially violated in the event that the school district's policy enabled a person with male genitalia, regardless of what gender that person professes, to see me partially or fully undressed. I also do not want to be exposed to male genitalia in any way while in facilities formerly designated for girls only.

15. I know I am not the only female student that feels this way. I feel this way because I want to maintain a sense of privacy and modesty. In my case, that is both a general concern and a concern grounded in my religion, which requires me to dress appropriately and not to undress in front of boys or be exposed to them while they are undressing.

16. If I knew that a biologically male student was using the restroom when I otherwise planned to use it, I would either postpone my plans to use the restroom or wait until I get home. If I had not gone to private school, I would have been forced to suffer the discomfort, inconvenience, and possibly even health risks associated with such a plan rather than going to the bathroom when a boy is present in the girls' restroom.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on August 17, 2016.

S.H.  
S.H.

# EXHIBIT R

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA**

JOAQUÍN CARCAÑO *et al.*,

Plaintiffs,

v.

CASE NO. 1:16-CV-00236-TDS-JEP

PATRICK MCCRORY *et al.*,

Defendants

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UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO. 1:16-CV-00425-TDS-JEP

STATE OF NORTH CAROLINA *et al.*,

Defendants

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NORTH CAROLINIANS FOR PRIVACY,

Plaintiff,

v.

CASE NO. 1:16-CV-00845-TDS-JEP

UNITED STATES OF AMERICA, *et al.*,

Defendants

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**DECLARATION OF ROBERT M. GALLAGHER**

I, Robert M. Gallagher, declare the following:

1. I am a native and resident of North Carolina and over 18 years of age.

2. I am Chairman and the Chief Executive Officer of St. Benedict Press, LLC.
3. St. Benedict Press, LLC is a wholly owned subsidiary of Good Will Publishers, Inc. of which I am majority owner.
4. I have been in the religious book publishing business for more than 30 years.
5. St. Benedict Press, LLC was founded in 2006 and is located in Charlotte, North Carolina.
6. St. Benedict Press, LLC publishes Bibles and other books pertaining to history, philosophy, and theology together with Bible study programs and other educational materials.
7. The purpose of St. Benedict Press, LLC is to publish and distribute educational materials to explain and proclaim the religious and moral teachings of the Roman Catholic Church.
8. The moral teachings of the Roman Catholic Church are the central guiding principles for our business.
9. St. Benedict Press, LLC employees approximately 30 individuals, more than half of whom are women.
10. We receive members of the public and customers in our offices and also provide members of the public deliveries for pick-up at our warehouse and shipping facility. We also provide meeting space for Church groups, non-profit religious organizations and homeschool children.
11. We provide multiple user restrooms for our employees and customers.
12. In 2016, I learned of the modifications proposed to Charlotte's non-discrimination ordinance which would have removed exclusions in the existing ordinance allowing bathrooms, locker rooms and shower facilities to be separated on the basis of biological sex. In my understanding, the proposal would have required all business owners

operating places of public accommodation to permit bathroom access based on purely subjective professions of gender identity instead of biological sex.

13. I was concerned about the implications this proposed policy would have on our business in several respects.
  - a. I believe that we provide separate restrooms for men and women for three basic reasons. First, we do so because of an interest in modesty. Modesty is a concern for the welfare of others that prompts a person to avoid dress and behaviors that might tempt other persons to treat them as an object rather than a human person. Second, we do so because experience has taught us that placing persons of the opposite biological sex together in a state of undress facilitates criminal activity. Third, we do so because we want to protect privacy so that people can undress without concern that they will be viewed by persons of the opposite biological sex.
  - b. Because gender identity is a purely subjective self-professed belief, there is no way to objectively determine whether a person is transgender or not. Therefore, practically speaking, the Charlotte ordinance would have made it impossible to exclude anyone of the opposite biological sex from entering any restroom regardless of whether or not they were actually transgender and whether or not they were merely using the law as an opportunity to gain access to a private area for persons of the opposite biological sex for the purpose of committing immoral or illegal acts.
  - c. Therefore, I was concerned that the Charlotte ordinance would undermine my employees' ability preserve modesty in an intimate public setting like a restroom.

As the owner of a Catholic business, the welfare of my employees in all respects is one of my greatest concerns.

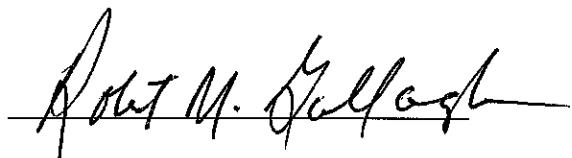
- d. I was also concerned that the Charlotte ordinance would create safety risks for my employees, particularly female employees, if we were required to permit persons of a different biological sex (including persons who might falsely claim to be transgender) access to private areas where our employees use the restroom and may from time to time change their clothing. As a business owner, I believe I am morally obligated to do whatever is prudent to protect our employees from assaults or any other threat to their privacy or safety. My company would also be potentially liable financially if an employee was assaulted, or their privacy was invaded, in our restroom facilities.
- e. I was also concerned that the Charlotte ordinance would jeopardize the privacy of our employees who might be exposed to a person of the opposite biological sex where either of them might be in a state of undress in our bathroom facilities. Such exposure would be offensive to our employees and customers both because of their concern for modesty and because it could make them fearful about their personal safety.
- f. I was also concerned about the potential reaction of our female employees, many of whom I fear would have quit their employment to take jobs outside Charlotte if the Charlotte ordinance had gone into effect.
- g. One possible way of mitigating the impact of the Charlotte ordinance would be to convert our bathroom facilities to single user units. However, even with consent from the building owner as required by our lease, it would not be physically

- possible within our leased facilities without either violating the building code by reducing the number of toilets or reducing the available space that we could use to conduct our business.
- h. Ultimately, had the Charlotte ordinance gone into effect, I would have seriously considered moving my business out of Charlotte altogether.
  - i. Aside from my concerns about the safety and privacy of our employees and customers, I was also concerned about the infringement of my religious liberty which the Charlotte ordinance would have caused.
  - j. My Catholic faith teaches me that human beings were created as male and female.
  - k. My Catholic faith also requires me to treat all human beings with charity and compassion.
  - l. But for me, affirming, by words or action, the belief of someone who was born as a male that he is in fact a female would be tantamount to a lie and would therefore be immoral. In addition, allowing persons of the opposite biological sex into our restrooms would also be immoral because it would jeopardize the privacy of my employees and customers and deny them their natural dignity as human beings.
  - m. I understand that the Charlotte ordinance would have forced me and my employees to lie about what we believe to be a person's true sex and would have prevented me from assisting such a person to understand their true nature as a human being.
14. I became very concerned when the proposed Charlotte ordinance became law.
15. State Legislation known as "House Bill 2" alleviated my immediate concerns by overriding the Charlotte ordinance.

16. I am equally concerned, however, about the Department of Justice's interpretation of Title VII which would effectively make the Charlotte ordinance a national policy and would subject my business and employees to the bathroom access provisions required by the Charlotte ordinance.
17. I have submitted this declaration because I believe policies like the Charlotte ordinance and the DOJ policy threaten my own religious liberty as well as that of my employees and customers as well as their modesty, safety and privacy.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this the 16<sup>th</sup> day of August, 2016.



Robert M. Gallagher  
Robert M. Gallagher

# EXHIBIT S

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

UNITED STATES OF AMERICA,

Plaintiffs,

v.

STATE OF NORTH CAROLINA; PATRICK MCCRORY, in his official capacity as Governor of North Carolina; NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY; UNIVERSITY OF NORTH CAROLINA; AND BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA,

Defendants,

and

PHIL BERGER, President Pro Tempore of the North Carolina Senate; TIM MOORE, Speaker of the North Carolina House of Representatives,

Intervenor-Defendants.

Case No. 1:16-CV-00425-TDS-JEP

**DECLARATION OF S.B.**

I, S.B., declare the following:

1. I make this declaration based on my personal knowledge.
2. I am a mother of five children.
3. I am also a foster parent.
4. All five of my children came to me through the foster parent program.
5. I live in a rural, conservative area in the Midwest where in the past all my children have attended public school.

6. Of my five children, I have two daughters who have been the victims of unspeakable sexual abuse.

7. When I first met them, my girls were broken and emotionally frail.

8. Because of their abuse, they have boundary and trust issues.

9. They also suffer from post traumatic stress disorder.

10. I adopted my daughters and brought them into my home to provide them a safe, secure environment where they can grow and thrive.

11. Working with doctors and psychologists, we are striving to mend these precious hearts so that they do not become defined by what they endured at the hands of wicked people.

12. But healing is a long process, and the slightest wrong turn can result in severe emotional and psychological trauma to my daughters.

13. A particular risk to my daughters is exposure to the anatomy of the opposite sex.

14. To my daughters, the male anatomy is a weapon by which they were assaulted.

15. But the risk extends to even being in the presence of biological males in situations where my daughters feel vulnerable, such as when they are using the bathroom, changing clothes, or showering.

16. The very presence of a male, regardless of whether he identifies as a female, in my daughters' restroom or locker room, even if he has the most innocent of

intentions, will almost certainly cause severe trauma that will set back their emotional and psychological healing process.

17. In fact, for my daughters, even knowing that a man is allowed to enter their restroom or locker room simply by professing to be a female creates anxiety and fear that threatens to impair their healing process.

18. In 2015, my daughters' school district adopted a policy allowing students to use the restrooms, locker rooms, and other facilities of the gender they identify with. This means that biological boys are allowed to use the same restrooms, showers, and changing areas as biological girls, and vice versa.

19. Unfortunately, in the effort to push this policy through, the rights of many other students were completely ignored, including those of my children, who have suffered severe sexual abuse, molestation, and rape and who will be directly harmed by the school district's policy.

20. When I confronted school officials with my concerns, I was ignored.

21. I was told I was overreacting and I needed to be "educated" about the rights and feelings of transgender students.

22. Also troubling in my conversations with the school officials was their statement that neither I nor my daughters had a right to know if they would be sharing a restroom, locker room, or even a hotel room with a member of the opposite sex.

23. According to the school officials, my daughters and I had no right to know ahead of time whether they would be sharing shower facilities with a boy.

24. For example, we would not know if, when my daughters go on the 6th grade, week-long, field trip to Washington, D.C., they would be assigned to room with—and even share a bed with—a boy.

25. When I voiced my strong objections to this, I was again told that my concerns were not a big deal.

26. This is a big deal to my daughters and to me as their mother. My daughters' emotional and psychological well-being is of paramount concern to me. And in addition to that, their right to privacy is also a big deal.

27. We as a society have separate facilities for boys and girls to protect them from exposure that is demeaning, embarrassing, or humiliating. In our case, separate facilities also happen to protect my daughters from any exposure to further emotional and psychological harm.

28. It is my opinion that policies that allow students to use the restrooms and locker rooms of the opposite sex ignore the rights and well-being of many students, including my daughters.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 16 day of August, 2016.

S.B.  
S.B.

# EXHIBIT T

## UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,

Plaintiffs,

v.

STATE OF NORTH CAROLINA; PATRICK MCCRORY, in his official capacity as Governor of North Carolina; NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY; UNIVERSITY OF NORTH CAROLINA; AND BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA,

Defendants,

and

PHIL BERGER, President Pro Tempore of the North Carolina Senate; TIM MOORE, Speaker of the North Carolina House of Representatives,

Intervenor-Defendants.

Case No. 1:16-CV-00425-TDS-JEP

### DECLARATION OF R.F.

I, R.F., declare the following:

1. I make this declaration based on my personal knowledge.
2. I am a father to a female minor student who attends the North Carolina

School of Science and Mathematics in Durham, North Carolina.

3. The North Carolina School of Science and Mathematics is a resident school. My daughter lives in the dorms on campus and uses the restrooms and showers there as well.

4. The North Carolina School of Science and Mathematics is part of the North Carolina University System.

5. The North Carolina School of Science and Mathematics currently maintains secure-access-controlled dormitories based on sex.

6. Because the federal government has ordered all schools in North Carolina to allow their students to access living facilities, locker rooms, and restrooms based on their gender identity, I am greatly concerned that my daughter will either have to stop attending the North Carolina School of Science and Mathematics or be forced to share living and other intimate facilities with male students who profess a female identity.

7. I am aware of students in attendance at the North Carolina School of Science and Mathematics who claim to be a gender that is different from their biological sex. At least some of these students are biological males who claim to be female.

8. Compelling my daughter to share living and other intimate facilities with members of the opposite sex would violate her privacy and dignity as a young woman. Doing that should not even be a consideration for the school because it is specifically tasked with ensuring the privacy and safety of minor students living away from home.

9. My wife and I are Christians who have always taught my daughter that men and women are uniquely made and that God designed each sex differently for a reason.

10. It would violate my religious beliefs about modesty for the school to put my daughter in a situation where she would have to reside, sleep, undress, shower, or use the restroom in the presence of a member of the opposite sex.

11. If the North Carolina School of Science and Mathematics changes its current policy regarding sex-segregated dorms and moves to comply with the federal government's demands, I will have to seriously examine alternate means of education for my daughter, which would unfortunately mean that we might have to move her to a different school.

12. Such a move would be very difficult to arrange and would come at considerable expense to our family, because no other school in North Carolina provides the same unique educational opportunities and experiences as the North Carolina School of Science and Mathematics.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 16<sup>th</sup> day of August, 2016.

R.F.

R.F.

# EXHIBIT U

## Use of the Term ‘Gender’ in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
1	1 U.S.C. § 1	Words denoting number, <b>gender</b> , and so forth	Statutory Interpretation	Definition	No	In determining the meaning of any Act of Congress, unless the context indicates otherwise-- . . . words importing the masculine <b>gender</b> include the feminine as well;
2	6 U.S.C. § 279(b)(1)(J)(i)	Children's affairs	Domestic Security	Report/Study/Info/Grant	No	(b) Functions. (1) In general. Pursuant to the transfer made by subsection (a) of this section, the Director of the Office of Refugee Resettlement shall be responsible for-- . . . (J) maintaining statistical information and other data on unaccompanied alien children for whose care and placement the Director is responsible, which shall include-- (i) biographical information, such as a child’s name, <b>gender</b> , date of birth, . . .
3	6 U.S.C. § 415(c)(3)	Homeland Security Education Program	Domestic Security	Discrimination/Diversity	No	(c) Student enrollment. -- (3) Diversity. The Administrator shall take reasonable steps to ensure that the student body represents racial, <b>gender</b> , and ethnic diversity.
4	7 U.S.C. § 1941(c)(5)(B)(ii)	Persons eligible for loans	Agriculture	Report/Study/Info/Grant	No	(c) Direct loans . . . (5) Annual report on term limits on direct operating loans. . . (B) Demographic information . . . (ii) Demographic information. The available demographic information shall include, to the maximum extent practicable, a description of race or ethnicity, <b>gender</b> , age, type of farm or ranch, financial classification, . . . as determined by the Secretary.
5	7 U.S.C. § 2003(a)(1), (3)	Agricultural Credit; Target Participation Rates	Agriculture	Report/Study/Info/Grant	No	(a) Establishment. (1) In general. The Secretary shall establish annual target participation rates, on a county wide basis, that shall ensure that members of socially disadvantaged groups will receive loans made or insured under subchapter I of this chapter and will have the opportunity to purchase or lease inventory farmland. (3) Gender. With respect to <b>gender</b> , target participation rates shall take into consideration the number of current and potential socially disadvantaged farmers and ranchers in a State in proportion to the total number of farmers and ranchers in the State.
6	7 U.S.C. § 2003(e)	Agricultural Credit; Target Participation Rates	Agriculture	Definition	No	(1) Socially disadvantaged group. As used in this section, the term “socially disadvantaged group” means a group whose members have been subjected to racial, ethnic, or <b>gender</b> prejudice because of their identity as members of a group without regard to their individual qualities.
7	7 U.S.C. § 2008d	Recordkeeping of loans by borrower’s gender	Agriculture	Report/Study/Info/Grant	No	The Secretary shall classify, by <b>gender</b> , records of applicants for loans and loan guarantees under this chapter.
8	7 U.S.C. § 2279-1(c)(1)	Transparency and accountability for socially disadvantaged farmers and ranchers	Agriculture	Report/Study/Info/Grant	No	(c) Compilation of program participation data. (1) Annual requirement. For each county and State in the United States, the Secretary of Agriculture (referred to in this section as the “Secretary”) shall annually compile program application and participation rate data regarding socially disadvantaged farmers or ranchers by computing for each program of the Department of Agriculture that serves agricultural producers and landowners-- (A) raw numbers of applicants and participants by race, ethnicity, and <b>gender</b> , subject to appropriate privacy protections, as determined by the Secretary; and (B) the application and participation rate, by race, ethnicity, and <b>gender</b> , as a percentage of the total participation rate . . .

### Use of the Term ‘Gender’ in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
9	8 U.S.C. § 1232(a)(5)(C)(ii)	Enhancing efforts to combat the trafficking of children	Immigration	Report/Study/Info/Grant	No	(C) Report on repatriation of unaccompanied alien children . . . the Secretary of State and the Secretary of Health and Human Services, . . . shall submit a report . . . on efforts to improve repatriation programs for unaccompanied alien children. Such report shall include-- . . . (ii) a statement of the nationalities, ages, and <b>gender</b> of such children; . . .
10	8 U.S.C. § 1377(a)(3)	Collection of data on detained asylum seekers	Immigration	Report/Study/Info/Grant	No	The Attorney General shall regularly collect data on a nation-wide [] basis with respect to asylum seekers in detention in the United States, including the following information: . . . (3) The percentage of each <b>gender</b> within the total number of detainees.
11	8 U.S.C. § 1378(a)(2)	Collection of data on other detained aliens	Immigration	Report/Study/Info/Grant	No	(a) In general. The Attorney General shall regularly collect data on a nationwide basis on aliens being detained in the United States by the Immigration and Naturalization Service other than the aliens described in section 1377 of this title, including the following information: . . . (2) An identification of the ages, <b>gender</b> , and countries of origin of detainees within each category described in paragraph (1).
12	10 U.S.C. § 481(a)(1), (2), (3)	Racial and ethnic issues; gender issues: surveys	Secretary of Defense	Report/Study/Info/Grant	No	(a) In general.--(1) The Secretary of Defense shall carry out four surveys in accordance with this section to identify and assess racial and ethnic issues and discrimination, and to identify and assess <b>gender issues and discrimination</b> , among members of the armed forces. Each such survey shall be conducted so as to identify and assess the extent (if any) of activity among such members that may be seen as so-called “hate group” activity. (2) The four surveys shall be as follows: . . . (C) To identify and assess <b>gender issues</b> and discrimination among members of the armed forces serving on active duty. (D) To identify and assess <b>gender issues</b> and discrimination members of the armed forces in the reserve components. (3) The surveys under this section relating to racial and ethnic issues and discrimination shall be known as the “Armed Forces Workplace and Equal Opportunity Surveys”. The surveys under this section relating to gender issues and discrimination shall be known as the “Armed Forces Workplace and <b>Gender Relations Surveys</b> ”.
13	10 U.S.C. § 481(c), (d)	Racial and ethnic issues; gender issues: surveys	Secretary of Defense	Report/Study/Info/Grant	No	(c) Armed Forces Workplace and Gender Relations Surveys.--The Armed Forces Workplace and Gender Relations Surveys shall be conducted so as to solicit information on gender issues, including issues relating to gender-based harassment, assault, and discrimination, and the climate in the armed forces for forming professional relationships <b>between male and female members</b> of the armed forces. Both such surveys shall be conducted so as to solicit information on the following: (1) Indicators of positive and negative trends for professional and personal relationships <b>between male and female members</b> of the armed forces. (2) The specific types of assault that have occurred, and the number of times each respondent has been assaulted during the preceding year. (3) The effectiveness of Department of Defense policies designed to improve professional relationships between male and female members of the armed forces. (4) The effectiveness of current processes for complaints on and investigations into <b>gender-based discrimination, harassment, and assault</b> . (5) Any other issues relating to discrimination, harassment, or assault as the Secretary of Defense considers appropriate.

### Use of the Term ‘Gender’ in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
14	10 U.S.C. § 481a. (1), (2)	Workplace and gender relations issues: surveys of Department of Defense civilian employees	DOD Civilian E/es	Report/Study/Info/Grant	No	(a) In general--(1) The Secretary of Defense shall carry out every other fiscal year a survey of civilian employees of the Department of Defense to solicit information on <i>gender issues</i> , including issues relating to <i>gender-based assault, harassment, and discrimination</i> , and the climate in the Department for forming professional relationships between <i>male and female</i> civilian employees of the Department. (2) Each survey under this section shall be known as a “Department of Defense Civilian Employee Workplace and <i>Gender Relations Survey</i> ”. (b) Elements.--Each survey conducted under this section shall be conducted so as to solicit information on the following: (1) Indicators of positive and negative trends for professional and personal relationships between male and female civilian employees of the Department. * * * (3) The effectiveness of Department policies designed to improve professional relationships between male and female civilian employees of the Department. (4) The effectiveness of current processes for complaints on and investigations into gender-based assault, harassment, and discrimination involving civilian employees of the Department.
15	10 U.S.C. § 656(a) and (b)(1)	Diversity in military leadership: plan	Secretary of Defense	Report/Study/Info/Grant	No	(a) Plan--The Secretary of Defense. . . shall develop and implement a plan to accurately measure the efforts of the Department of Defense and the Coast Guard to achieve a dynamic, sustainable level of members of the armed forces . . . that, among both commissioned officers and senior enlisted personnel of each armed force, will reflect the diverse population of the United States eligible to serve in the armed forces, including <i>gender specific</i> , racial, and ethnic populations. . . . (b) . . . The metrics required by this subsection shall be designed- (1) to accurately capture the inclusion and capability aspects of the armed forces' broader diversity plans, including race, ethnic, and <i>gender specific groups</i> , as potential factors of force readiness that would supplement continued accounting by the Department of Defense and the Coast Guard of diversified language and cultural skills among the total force as part of the assessment of current and future national security needs; and . . .
16	10 U.S.C. § 8252	Regular Air Force: gender-free basis for acceptance of original enlistments	Air Force	Discrimination/Diversity	No	In accepting persons for original enlistment in the Regular Air Force, the Secretary of the Air Force may not-- (1) set a minimum or maximum percentage of persons who may be accepted for such an enlistment according to <i>gender</i> for skill categories or jobs; or (2) in any other way base the acceptance of a person for such an enlistment on <i>gender</i> .
17	10 U.S.C. § 10206(a)(1)	Members: physical examinations	Armed Services	Report/Study/Info/Grant	No	(a) Each member of the Selected Reserve who is not on active duty shall—(1) have a comprehensive medical readiness health and dental assessment on an annual basis, including routine annual preventive health care screening and periodic comprehensive physical examinations in accordance with regulations prescribed by the Secretary of Defense that reflect morbidity and mortality risks associated with the military service, age, and <i>gender</i> of the member; and . . .

## Use of the Term 'Gender' in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
18	12 U.S.C. § 1456(e)(1)(A), (f)(2)(B)	FHLMC Mortgage Data Collection	Banks and Banking	Report/Study/Info/Grant	No	(e) <u>Mortgage data collection and reporting requirements</u> (1) The Corporation shall collect, maintain, and provide to the Director of the Federal Housing Finance Agency, in a form determined by the Director, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include-- (A) the income, census tract location, race, and <i>gender</i> of mortgagors under such mortgages; (f) Report on housing activities; contents; public disclosure . . . (2) The report under this subsection shall-- . . . (B) include, in aggregate form and by appropriate category, statements of the number of families served by the Corporation, the income class, race, and <i>gender</i> of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;
19	12 U.S.C. § 4544(b)(3)	Annual Housing Report	Banks and Banking	Report/Study/Info/Grant	No	(b) <u>Contents</u> The report required under subsection (a) shall-- . . . (3) aggregate and analyze data on income, race, and <i>gender</i> by census tract and other relevant classifications, and compare such data with larger demographic, housing, and economic trends . . .
20	12 U.S.C. § 4703(d)(2)(G)	Establishment of national Fund for community development banking	Banks and Banking	Discrimination/Diversity	No	(d) <u>Advisory Board</u> . . . (2) <u>Membership</u> The Board shall consist of 15 members, including-- . . . (G) 9 private citizens, appointed by the President, who shall be selected, to the maximum extent practicable, to provide for national geographic representation and racial, ethnic, and <i>gender diversity</i> , including-- . . .
21	12 U.S.C. § 5452(b)(2)(A)	Office of Minority and Women Inclusion	Banks and Banking	Discrimination/Diversity	No	(b) <u>Director</u> . . . (2) <u>Duties</u> Each Director shall develop standards for-- (A) equal employment opportunity and the racial, ethnic, and <i>gender diversity</i> of the workforce and senior management of the agency; . . .
22	15 U.S.C. § 1639b(b)(3)(C)	Residential mortgage loan origination	Consumer Credit Protection	Discrimination/Diversity	No	(b) <u>Duty of care</u> . . . (3) <u>Regulations</u> The Bureau shall prescribe regulations to prohibit-- . . . (C) abusive or unfair lending practices that promote disparities among consumers of equal credit worthiness but of different race, ethnicity, <i>gender</i> , or age; and . . .
23	15 U.S.C. § 631(h)(1)(C)	Declaration of policy	Commerce & Trade	Discrimination/Diversity	No	(h) <u>Assistance to women owned business</u> . (1) With respect to the programs and activities authorized by this chapter, the Congress finds that-- . . . (C) despite such progress, women, as a group, are subjected to discrimination in entrepreneurial endeavors due to their <i>gender</i> ;
24	15 U.S.C. § 631b(e)	Report on Small Business and Competition	SBA/Commerce and Trade	Report/Study/Info/Grant	No	(e) <u>Small business concerns owned by disadvantaged individuals and by women</u> The information and data required to be reported pursuant to subsection (a) of this section shall separately detail those portions of such information and data that are relevant to-- (1) small business concerns owned and controlled by socially and economically disadvantaged individuals, <b>by gender</b> , as defined pursuant to section 637(d) of this title;

## Use of the Term 'Gender' in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
25	15 U.S.C. § 636(j)(16)(B)(iv)	Additional Powers	Commerce & Trade	Report/Study/Info/Grant	No	(1) Financial assistance for projects providing technical or management assistance; areas of high concentration of unemployment or low-income; preferences; manner and method of payment; accessible services; program evaluations; establishment of development program; coordination of policies. . .(16) . (B) Not later than April 30 of each year, the Administrator shall submit a report to the Congress on the Program that shall include the following: . . .(iv) A listing of all participants in the Program during the preceding fiscal year identifying, by State and by Region, for each firm: the name of the concern, the race or ethnicity, and <i>gender</i> of the disadvantaged owners, . . .
26	18 U.S.C. § 249(a)(2), (c)(4)	Hate Crime Acts	Criminal Law	Hate Crimes	Yes	(2) Offenses involving actual or perceived religion, national origin, <i>gender, sexual orientation, gender identity, or disability</i> -- (A) In general.--Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B) or paragraph (3), willfully causes bodily injury to any person or, through the use of fire, a firearm, a dangerous weapon, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, <i>gender, sexual orientation, gender identity, or disability</i> of any person-- (i) shall be imprisoned not more than . . . (c) Definitions.--In this section-- * * * (4) the term " <i>gender identity</i> " means actual or perceived gender-related characteristics;
27	20 U.S.C. § 3412	Department of Education; Assistant in Charge of Gender Equity	Education	Department Position	No	(3) There shall be in the Department, <i>a Special Assistant for Gender Equity who</i> shall be appointed by the Secretary. The Special Assistant shall promote, coordinate, and evaluate <i>gender equity programs</i> , including the dissemination of information, technical assistance, and coordination of research activities. The Special Assistant shall advise the Secretary and Deputy Secretary on all matters relating to <i>gender equity</i> '.

### Use of the Term 'Gender' in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
28	20 U.S.C. § 1022d(a)(1)(C)(ii), (b)(1)(G)(ii)	Accountability for programs that prepare teachers	Education	Report/Study/Info/Grant	No	(a) <u>Institutional and program report cards on the quality of teacher preparation</u> (1) Report card Each institution of higher education that conducts a traditional teacher preparation program or alternative routes to State certification or licensure program and that enrolls students receiving Federal assistance under this chapter shall report annually to the State and the general public, in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary, the following: . . . <u>(C) Program information</u> A description of- . . . (ii) the number of students in the program (disaggregated by race, ethnicity, and <b>gender</b> ); (b) State report card on the quality of teacher preparation (1) In general. Each State that receives funds under this chapter shall provide to the Secretary, and make widely available to the general public, . . . an annual State report card on the quality of teacher preparation in the State, both . . . shall include not less than the following: . . . (G) For each teacher preparation program in the State- . . . (ii) the number of students in the program, disaggregated by race, ethnicity, and <b>gender</b> (except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student).
29	20 U.S.C. § 1161i-4(a)(2)(A)	State Task Force Activities	Education	Report/Study/Info/Grant	No	(a) <u>Activities</u> . The State Task Force shall-- (2) conduct a . . . periodic statewide survey concerning the demographics of individuals working in early childhood education programs in the State, which survey shall include information disaggregated by-- (A) race, <b>gender</b> , and ethnicity; . . .
30	20 U.S.C. § 1161y(d)(1)(B)(v)	Early Federal Pell Grant Commitment Demonstration Program	Education	Discrimination/Diversity	No	(d) Selection considerations. (1) <u>Selection of State educational agencies</u> . In selecting State educational agencies to participate in the demonstration program under this section, the Secretary shall consider-- (B) a state educational agency's- . . . (v) ability to ensure the participation in the demonstration project of a diverse group of students, including with respect to ethnicity and <b>gender</b> .
31	20 U.S.C. § 1418(a)	Program Information; Assistance to Children With Disabilities	Secretary of Education	Report/Study/Info/Grant	No	(a) <u>In general</u> . Each State that receives assistance under this subchapter, and the Secretary of the Interior, shall provide data each year to the Secretary of Education and the public on the following (1)(A) The number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, <b>gender</b> , and disability category, who are in each of the following separate categories: . . . (B) The number and percentage of children with disabilities, by race, <b>gender</b> , and ethnicity, who are receiving early intervention services. (C) The number and percentage of children with disabilities, by race, <b>gender</b> , and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons.

### Use of the Term ‘Gender’ in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
32	20 U.S.C. § 2302(20)	Definitions	Education	Definition	No	<u>Unless otherwise specified, in this chapter: . . . (20) Non-traditional fields.</u> The term “non-traditional fields” means occupations or fields of work, including careers in computer science, technology, and other current and emerging high skill occupations, for which individuals from one <b>gender</b> comprise less than 25 percent of the individuals employed in each such occupation or field of work.
33	20 U.S.C. § 6311(b)(2)(B)(xi)(V), 6311(g)(2)(N)	State Plans	Education	Report/Study/Info/Grant	No	(b) <u>Challenging academic standards and academic assessments</u> . . . (2) <u>Academic assessments</u> . . . (B) <u>Requirements</u> . The assessments under subparagraph(A) . . . (xi) enable results to be disaggregated within each State, local educational agency, and school by-- . . . (V) <b>gender</b> ; and . . .
34	20 U.S.C. § 6471(a)	Program evaluations	Education	Report/Study/Info/Grant	No	(a) <u>Scope of evaluation</u> . Each State agency or local educational agency that conducts a program under subpart 1 or 2 of this part shall evaluate the program, disaggregating data on participation by <b>gender</b> , race, ethnicity, and age while protecting individual student privacy, not less than once every 3 years, to determine the program’s impact on the ability of participants--. . .
35	20 U.S.C. § 9514(f)(7)	Office of the Director	Education	Discrimination/Diversity	No	(f) <u>Duties</u> . The duties of the Director shall include the following: . . . (7). To ensure that activities conducted or supported by the Institute are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, <b>gender</b> , or regional bias.
36	20 U.S.C. § 9516(b)(8)	National Board for Education Sciences	Education	Discrimination/Diversity	No	(b) <u>Duties</u> . The duties of the Board shall be the following: . . . (8) To advise the Director on ensuring that activities conducted or supported by the Institute are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, <b>gender</b> , or regional bias.
37	20 U.S.C. § 9533(c)(7)	Duties	Education	Report/Study/Info/Grant	No	(c) <u>National research and development centers</u> . . . (7) <u>Disaggregation</u> . To the extent feasible, research conducted under this subsection shall be disaggregated by age, race, <b>gender</b> , and socioeconomic background.
38	20 U.S.C. § 9543(a)(3)	Duties	Education	Report/Study/Info/Grant	No	(a) <u>General duties</u> . The Statistics Center shall collect, report, analyze, and disseminate statistical data related to education in the United States and in other nations, including-- . . . (3) collecting, analyzing, cross-tabulating, and reporting, to the extent feasible, information by <b>gender</b> , race, ethnicity, socioeconomic status, limited English proficiency, mobility, disability, urban, rural, suburban districts, and other population characteristics, when such disaggregated information will facilitate educational and policy decisionmaking; . . .
39	20 U.S.C. § 9621(b)(3) and (e)(4)	National Assessment Governing Board	Education	Discrimination/Diversity	No	(3) <u>Balance and diversity</u> . The Secretary and the Assessment Board shall ensure at all times that the membership of the Assessment Board reflects regional, racial, <b>gender</b> , and cultural balance and diversity and that the Assessment Board exercises its independent judgment, free from inappropriate influences and special interests. (a)(4) <u>Prohibition against bias</u> * * * (e)(4) The Assessment Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, <b>gender</b> , or regional bias and are secular, neutral, and non-ideological.

## Use of the Term 'Gender' in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
40	22 U.S.C. § 2151b-2(d)(4), (6)(e), 2(e)(2)(E)(4)	Assistance to combat HIV/AIDS	Foreign Relations	Report/Study/Info/Grant	No	<p>(4) Monitoring. The monitoring of programs, projects, and activities carried out pursuant to paragraphs (1) through (3), including-- . . . (E) carrying out and expanding program monitoring, impact evaluation research and analysis, and operations research and disseminating data and findings through mechanisms . . . in order to-- (i) improve accountability, increase transparency, and ensure the delivery of evidence-based services through the collection, evaluation, and analysis of data regarding <b>gender-responsive interventions</b>, disaggregated by age and sex; (ii) identify and replicate effective models; and (iii) develop <b>gender indicators</b> to measure outcomes and the impacts of interventions;</p> <p>(6) Related and coordinated activities The conduct of related activities, including-- . . . (E) coordinated or referred activities to link programs addressing HIV/AIDS with programs addressing <b>gender-based violence</b> in areas of significant HIV prevalence to assist countries in the development and enforcement of women's health, children's health, and HIV/AIDS laws and policies that-- . . . (iii) promote appropriate HIV/AIDS counseling, testing, and treatment into <b>gender-based violence</b> programs; and</p> <p>(e) Compacts and framework agreements. . . . (2) . . . (E) Compacts shall contain-- . . . (iv) an identification of the intended beneficiaries, disaggregated by <b>gender</b> and age, and including information on orphans and vulnerable children, to the maximum extent practicable[.]</p>
41	22 U.S.C. § 2507a(c)	Sexual assault risk-reduction and response training	Foreign Relations & Intercourse	Report/Study/Info/Grant	No	<p>(c) Subsequent training. Once a volunteer has arrived in his or her country of service, the President shall provide the volunteer with training tailored to the country of service that includes cultural training relating to <b>gender relations</b>, risk-reduction strategies, treatment available in such country (including sexual assault forensic exams, post-exposure prophylaxis (PEP) for HIV exposure, screening for sexually transmitted diseases, and pregnancy testing), MedEvac procedures, and information regarding a victim's right to pursue legal action against a perpetrator.</p>
42	22 U.S.C. § 7103(d)(7)(Q)(i), (ii)	Interagency Task Force to Monitor and Combat Trafficking	Foreign Relations & Intercourse	Report/Study/Info/Grant	No	<p>(d) Activities of the Task Force. The Task Force shall carry out the following activities: . . . (7) Not later than May 1, 2004, and annually thereafter, the Attorney General shall submit to the Committee on Ways and Means, . . . a report on Federal agencies that are implementing any provision of this chapter, or any amendment made by this chapter, which shall include, at a minimum, information on-- . . . (Q) the activities undertaken by Federal agencies in cooperation with State, tribal, and local law enforcement officials to identify, investigate, and prosecute offenses . . . including, in each fiscal year-- . . . (i) the number, age, <b>gender</b>, country of origin, and citizenship status of victims identified for each offense; . . . (vii) the age, <b>gender</b>, race, country of origin, country of citizenship, and description of the role in the offense of individuals convicted under each offense; and . . .</p>

### Use of the Term ‘Gender’ in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
43	22 U.S.C. § 7107(b)(1)(E)	Actions against governments failing to meet minimum standards	Foreign Relations & Intercourse	Report/Study/Info/Grant	No	(b) <u>Reports to Congress.</u> (1) Annual report. Not later than June 1 of each year, the Secretary of State shall submit to the appropriate congressional committees a report describing the anti-trafficking efforts of the United States and foreign governments . . . The report should include-- . . . (E) reporting and analysis on the emergence or shifting of global patterns in human trafficking, including data on the number of victims trafficked to, through, or from major source and destination countries, disaggregated by nationality, <b>gender</b> , and age, to the extent possible[.]
44	22 U.S.C. § 7512(4), (6)	Subchapter I. Economic and Democratic Development Assistance for Afghanistan, Purposes of Assistance	Foreign Relations	Department Position	No	The purposes of assistance authorized by this subchapter are-- . . . (4) to help achieve a broad-based, multi-ethnic, <b>gender-sensitive</b> , and fully representative government in Afghanistan that is freely chosen by the people of Afghanistan and that respects the human rights of all Afghans, particularly women, including authorizing assistance for the rehabilitation and reconstruction of Afghanistan with a particular emphasis on meeting the educational, health, and sustenance needs of women and children to better enable their full participation in Afghan society; . . . (6) to foster the participation of civil society in the establishment of the new Afghan government in order to achieve a broad-based, multi-ethnic, <b>gender-sensitive</b> , fully representative government freely chosen by the Afghan people, without prejudice to any decisions which may be freely taken by the Afghan people about the precise form in which their government is to be organized in the future[.]
45	22 U.S.C. § 7708(b)(1)(D)	Millennium challenge Compact	Foreign Relations & Intercourse	Report/Study/Info/Grant	No	(b) Elements. (1) In general. The Compact should take into account the national development strategy of the eligible country and shall contain-- . . . (D) an identification of the intended beneficiaries, disaggregated by income level, <b>gender</b> , and age, to the maximum extent practicable; . . .
46	25 U.S.C. § 1671(3)(B)	Reports	Indians	Report/Study/Info/Grant	No	The President shall, at the time the budget is submitted under section 1105 of Title 31, for each fiscal year transmit to the Congress a report containing-- . . . (3) a report on the use of health services by Indians-- . . . (B) by <b>gender</b> and age; . . .
47	29 U.S.C. § 2503(a)(6)	Chapter 27. Women in Apprenticeship and Nontraditional Occupations	Labor	Report/Study/Info/Grant	No	(a) In general With funds appropriated to carry out this section, the Secretary shall make grants to community-based organizations to provide technical assistance to employers and labor unions selected under subsection (b) of this section. Such technical assistance may include-- . . . (6) serving as a liaison between tradeswomen and employers and tradeswomen and labor unions to address workplace issues related to <b>gender</b> ; and . . .
48	29 U.S.C. § 3102(37)	Definitions	Labor	Definition	No	(37) Nontraditional employment. The term “nontraditional employment” refers to occupations or fields of work, for which individuals from the <b>gender</b> involved comprise less than 25 percent of the individuals employed in each such occupation or field of work.

### Use of the Term ‘Gender’ in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
49	29 U.S.C. § 3209(d)(1)(B)	Management information	Labor	Report/Study/Info/Grant	No	(d) Additional information. (1) In general. The Secretary shall also collect, and submit in the report described in subsection (c)(4), information on the performance of each Job Corps center, and the Job Corps program, regarding-- . . . (B) demographic information on the enrollees served, including age, race, <b>gender</b> , and education and income level; . . .
50	29 U.S.C. § 705(20)(F)(i)	Definitions	Labor	Definition	Yes	(20) Individual with a disability. . . (F) Rights provisions; exclusion of individuals on basis of certain disorders. For the purposes of sections 791, 793, and 794 of this title, the term “individual with a disability” does not include an individual on the basis of-- (i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, <b>gender identity disorders</b> not resulting from physical impairments, or other sexual behavior disorders; . . .
51	29 U.S.C. § 721(a)(10)(E)(i)(I)	State plans	Labor	Report/Study/Info/Grant	No	(a) Plan requirements . . . (10) Reporting requirements . . . (E). Additional information. The Commissioner shall require that each designated State unit include in the reports additional information related to the applicants and eligible individuals, obtained either through a complete count or sampling, including-- (1) information on-- (I) age, <b>gender</b> , race, ethnicity, education, category of impairment, severity of disability, and whether the individuals are students with disabilities; . . .
52	37 U.S.C. § 438(d)(2)	Preventative Health Services Allowance	Armed Services	Report/Study/Info/Grant	No	(d) Authorized preventive health services.-- (2) At a minimum, authorized preventive health services shall include, taking into consideration the age and <b>gender</b> of the member and dependents of the member: . . .
53	38 U.S.C. § 542(a)(2)(A)(ii)	Advisory Committee on Women Veterans	Veteran Benefits	Advisory Committee	No	(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Women Veterans (hereinafter in this section referred to as “the Committee”). (2)(A) The Committee shall consist of members appointed by the Secretary from the general public, including-- . . . (ii) individuals who are recognized authorities in fields pertinent to the needs of women veterans, including the <b>gender-specific</b> health-care needs of women; . . .
54	41 U.S.C. § 1713(b)	Procurement data	Public Contracts	Report/Study/Info/Grant	No	(b) Reporting.--Each Federal agency shall report to the Office of Federal Procurement Policy the number of qualified HUBZone small business concerns, the number of small businesses owned and controlled by women, and the number of small business concerns owned and controlled by socially and economically disadvantaged individuals, by <b>gender</b> , that are first time recipients of contracts from the agency. The Office shall take appropriate action to ascertain, for each fiscal year, the number of those small businesses that have newly entered the Federal market.
55	42. U.S.C. § 280g-7(a)(2)(C)	Amyotrophic lateral sclerosis registry	Public Health and Welfare	Report/Study/Info/Grant	No	(a) Establishment. . . (2) Purpose. It is the purpose of the registry established under paragraph (1)(B) to-- . . . (C) better outline key demographic factors (such as age, race or ethnicity, <b>gender</b> , and family history of individuals who are diagnosed with the disease) associated with the disease; . . .

## Use of the Term 'Gender' in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
56	42 U.S.C. § 290bb-25(m)	Grants for services for children of substance abusers	Public Health Service	Report/Study/Info/Grant	No	<u>(m) Data collection.</u> The Secretary shall periodically collect and report on information concerning the numbers of children in substance abusing families, including information on the age, <b>gender</b> and ethnicity of the children, the composition and income of the family, and the source of health care finances. The periodic report shall include a quantitative estimate of the prevalence of alcohol and drug problems in families involved in the child welfare system, the barriers to treatment and prevention services facing these families, and policy recommendations for removing the identified barriers, including training for child welfare workers.
57	42 U.S.C. § 300jj-12(b)(2)(B)(vii)	HIT Policy Committee	Public Health and Welfare	Report/Study/Info/Grant	No	<u>(b) Duties . . . (2) Specific areas of standard development . . . (B) Areas required for consideration.</u> For purposes of subparagraph (A), the HIT Policy Committee shall make recommendations for at least the following areas: . . . <u>(vii) The use of electronic systems to ensure the comprehensive collection of patient demographic data, including, at a minimum, race, ethnicity, primary language, and <b>gender</b> information.</u>
58	42 U.S.C. § 1395w-23(a)(1)(C)(i)	Payments to Medicare+Choice organizations	Public Health and Welfare	Report/Study/Info/Grant	No	<u>(a) Payments to organizations, (1) Monthly payments . . . (C) Demographic adjustment, including adjustment for health status. (i) In general.</u> The Secretary shall adjust the payment amount under subparagraph (A)(i) and the amount specified under subparagraph (B)(i), (B)(ii), and (B)(iii) for such risk factors as age, disability status, <b>gender</b> , institutional status, and such other factors as the Secretary determines to be appropriate, including adjustment for health status under paragraph (3), so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such adjustment factors if such changes will improve the determination of actuarial equivalence.
59	42 U.S.C. § 1396n(k)(5)(B)(iii)	Compliance with State plan and payment provisions	Public Health and Welfare	Report/Study/Info/Grant	No	<u>(k) State plan option to provide home and community-based attendant services and supports . . . (5) Evaluation, data collection, and report to Congress . . . (B) Data collection.</u> The State shall provide the Secretary with the following information regarding the provision of home and community-based attendant services and supports under this subsection for each fiscal year for which such services and supports are provided: . . . <u>(iii) The specific number of individuals served by type of disability, age, <b>gender</b>, education level, and employment status.</u>
60	42 U.S.C. § 1437aaa-8	Annual Report, Low Income Housing	Public Health and Welfare	Report/Study/Info/Grant	No	The Secretary shall annually submit to the Congress a report setting forth-- . . . <u>(2) the income, race, <b>gender</b>, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this subchapter</u>

### Use of the Term 'Gender' in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
61	42 U.S.C. § 1862n-7 (b) and (c)	National Science Foundation Grants	Public Health and Welfare	Report/Study/Info/Grant	No	<p><b>b) Faculty.</b> Not later than 3 months after December 19, 2002, the Director shall enter into an arrangement with the National Academy of Sciences to assess gender differences in the careers of science and engineering faculty. This study shall build on the Academy's work on <b>gender differences</b> in the carriers of doctoral scientists and engineers and examine issues such as faculty hiring, promotion, tenure, and allocation of resources including laboratory space. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate. <b>(c) Grant funding.</b> Not later than 3 months after December 19, 2002, the Director shall enter into an agreement with an appropriate party to assess gender differences in the distribution of external Federal research and development funding. This study shall examine differences in amounts requested and awarded, <b>by gender</b>, in major Federal external grant programs. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.</p>
62	42 U.S.C. § 5105(a)(4)(B)(ii) and (iii)	Research and assistance activities	Child Abuse prevention	Report/Study/Info/Grant	No	<p><b>(a) Research. . . (4) Study on shaken baby syndrome.</b> The Secretary shall conduct a study that-- . . . <b>(B)</b> determines the feasibility of collecting uniform, accurate data from all States regarding-- . . . <b>(ii)</b> characteristics of perpetrators of shaken baby syndrome, including age, <b>gender</b>, relation to victim, access to prevention materials and resources, and history of substance abuse, domestic violence, and mental illness; and <b>(iii)</b> characteristics of victims of shaken baby syndrome, including <b>gender</b>, date of birth, date of injury, date of death (if applicable), and short- and long-term injuries sustained.</p>
63	42 U.S.C. § 5617(I)(B)	Annual Report	Public Health and Welfare	Report/Study/Info/Grant	No	<p>Not later than 180 days after the end of a fiscal year, the Administrator shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains the following with respect to such fiscal year: (1) A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence-- . . . (B) the race and <b>gender</b> of the juveniles; . . .</p>

### Use of the Term 'Gender' in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
64	42 U.S.C. § 5633(a)(7)(A),(B), (15)	Juvenile Justice and Delinquency Programs; Federal Assistance to State and Local Governments	Public Health and Welfare	Report/Study/Info/Grant	No	(a) Requirements. In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. Such plan shall be amended annually to include new programs, projects, and activities. The State shall submit annual performance reports to the Administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall-- . . . (7)(A) provide for an analysis of juvenile delinquency problems in, and the juvenile delinquency control and delinquency prevention needs (including educational needs) of, the State (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the State; and (B) contain--(i) an analysis of <b>gender-specific services</b> for the prevention and treatment of juvenile delinquency, including the types of such services available and the need for such services; . . . (15) provide assurance that youth in the juvenile justice system are treated equitably on the basis of <b>gender</b> , race, family income, and disability;
65	46 U.S.C. § 3507(g)(2)(D)	Passenger vessel security and safety requirements	Shipping	Report/Study/Info/Grant	No	(g) Log book and reporting requirements.-- . . . (2) Details required.-- The information recorded under paragraph (1) shall include, at a minimum-- . . . (D) the age and <b>gender</b> of the victim and the accused assailant; . . .
66	42 U.S.C. § 12211(b)	Equal Opportunity for Individuals with Disabilities	Public Health and Welfare	Definition	Yes	(b) Certain conditions. Under this chapter, the term "disability" shall not include--(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, <b>gender identity disorders not resulting from physical impairments</b> , or other sexual behavior disorders;
67	42 U.S.C. § 12651a(a)(2)(D)	Board of Directors	Public Health and Welfare	Discrimination/Diversity	No	(a) Composition. . . (2) Qualifications. To the maximum extent practicable, the President shall appoint members-- . . . (D) so that the Board shall be diverse according to race, ethnicity, age, <b>gender</b> , and disability characteristics; and . . .
68	42 U.S.C. § 13704(a)(2)(a)	Truth-in-sentencing incentive grants	Public Health and Welfare	Report/Study/Info/Grant	No	(a) Eligibility. To be eligible to receive a grant award under this section, a State shall submit an application to the Attorney General that demonstrates that-- . . . (2) such State has provided assurances that it will follow guidelines established by the Attorney General in reporting, on a quarterly basis, information regarding the death of any person who is in the process of arrest, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, or other local or State correctional facility (including any juvenile facility) that, at a minimum, includes-- (A) the name, <b>gender</b> , race, ethnicity, and age of the deceased; . . .
69	42 U.S.C. § 13727(b)(1)	State information regarding individuals who die in law enforcement	Public Health and Welfare	Report/Study/Info/Grant	No	(b) Information required. The report required by this section shall contain information that, at a minimum, includes-- (1) the name, <b>gender</b> , race, ethnicity, and age of the deceased; . . .

### Use of the Term ‘Gender’ in the United States Code

#	Citation	Title of Act/Section	Deals with	Classification	Explicit mention of gender identity	Text
70	42 U.S.C. § 13925(a) (39), (b)(13)(A)	Violence Against Womens' Act	Violence against women	Definition	Yes	(a) Definitions. In this subchapter: . . . (39) Underserved populations. The term “underserved populations” means populations who face barriers in accessing and using victim services, and includes populations underserved because of geographic location, religion, sexual orientation, <b>gender identity</b> , underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General or by the Secretary of Health and Human Services, as appropriate. (b) Grant conditions. . . .(13) Civil rights. (A) Nondiscrimination. No person in the United States shall, on the basis of actual or perceived race, color, religion, national origin, sex, <b>gender identity</b> (as defined in paragraph 249(c)(4) of Title 18), sexual orientation, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the Violence Against Women Act of 1994 . . . and any other program or activity funded in whole or in part with funds appropriated for grants, cooperative agreements, and other assistance administered by the Office on Violence Against Women.
71	42 U.S.C. § 14001(a), (b), (c)	Educational Training for Judges and Personnel	Gender bias in federal courts	Report/Study/Info/Grant	No	(a) <u>Studies</u> . In order to gain a better understanding of the nature and the extent of <b>gender bias</b> in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits and to implement recommended reforms. (b) <u>Matters for examination</u> . The studies under subsection (a) of this section may include an examination of the <b>effects of gender</b> on . . . (c) Clearinghouse The Administrative Office of the United States Courts shall act as a clearinghouse to disseminate any reports and materials issued by the <b>gender</b> bias task forces under subsection (a) of this section and to respond to requests for such reports and materials. The gender bias task forces shall provide the Administrative Office of the Courts of the United States with their reports and related material.
72	42 U.S.C. § 14171(d)(1)	Motor vehicle theft prevention program	Public Health and Welfare	Discrimination/Diversity	No	(d) Specified conditions under which stops may be authorized. (1) In general. The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may not be based on race, creed, color, national origin, <b>gender</b> , or age. These conditions may include-- . . .
73	42 U.S.C. § 14193(10)	Purposes of the Presidential Summit on Violence and National Commission on Crime Prevention and Control	Public Health and Welfare	Report/Study/Info/Grant	No	The purposes of the Commission are as follows: . . . (10) To examine the ability of Federal, State, and local criminal justice systems to administer criminal law and criminal sanctions impartially without discrimination on the basis of race, ethnicity, religion, <b>gender</b> , or other legally proscribed grounds, and to make recommendations for correcting any deficiencies in the impartial administration of justice on these grounds.