

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

No. 2:17-cv-1297-MJP

**DECLARATION OF
RYAN B. PARKER**

I, Ryan B. Parker, swear under penalty of perjury under the laws of the United States to the following:

1. I am a Senior Trial Counsel at the United States Department of Justice and counsel of record for Defendants in this action. I submit this declaration in support of Defendants’ Opposition to Plaintiffs’ Motion to Show Cause.

2. Attached to this declaration as Exhibit 1 is a true and correct copy of Defendants’ Supplemental Initial Disclosures, which I served on counsel for Plaintiffs and the State of Washington by email on May 11, 2018.

3. On May 8, 2018, I participated in a lengthy conference call with Plaintiffs’ counsel. We discussed several discovery issues. Plaintiffs’ counsel requested that Defendants supplement their initial disclosures in two days, by May 10, 2018. I stated that Defendants intended to supplement their initial disclosures but were unlikely to be able to do so by May 10, due to the deposition, filings, and document productions occurring in the related cases.

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4. Plaintiffs did not notify me during our May 8, 2018 conference call or anytime thereafter that they intended to file a motion to show cause regarding Defendants’ initial disclosures.

5. On May 11, 2018, I emailed Plaintiffs’ counsel and asked whether Plaintiffs would withdraw their Motion to Show Cause in light of the supplemental initial disclosures that Defendants provided earlier in the day. Plaintiffs’ counsel informed me by email that they intend to respond to my question on Monday, May 14, 2018.

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

EXECUTED this 11th day of May 2018.

/s/ Ryan B. Parker

RYAN B. PARKER
Senior Trial Counsel
United States Department of Justice
Civil Division, Federal Programs Branch

Exhibit 1

The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

Case No. 2:17-cv-01297-MJP

DEFENDANTS' SECOND AMENDED INITIAL DISCLOSURES

Pursuant to Federal Rule of Civil Procedure 26(e), Defendants supplement their initial disclosures based on the information reasonably available as of this date.

I. Individuals Who May Possess Relevant Discoverable Information That May Be Relied Upon By Defendants In Support of Their Defenses

Defendants maintain their position that any challenge to the Department of Defense's new policy must proceed under the Administrative Procedure Act (APA), the vehicle Congress has providing for challenging the actions of Executive Branch agencies. Under the APA, review of the Department of Defense's new policy should be limited to the administrative record. Nevertheless, to the extent the Court disagrees with Defendants' position, and allows this case to proceed outside of the framework Congress provided in the APA, Defendants identify the following individuals

who may possess relevant discoverable information that may be relied upon by Defendants in support of their defenses.

1. Anthony Kurta
Deputy Assistant Secretary of Defense for Military Personnel Policy
Washington, D.C.

Mr. Kurta has non-privileged information about the work performed by the panel of experts that the Department of Defense convened to study the issue of military service by transgender individuals and the administrative process that resulted in the Department of Defense's new policy regarding military service by transgender individuals.

2. Lernes Hebert
Acting Deputy Assistant Secretary of Defense, Military Personnel Policy, Office of the Under Secretary of Defense for Personnel and Readiness
Washington, D.C.

Mr. Hebert has non-privileged information about the work performed by the panel of experts that the Department of Defense convened to study the issue of military service by transgender individuals and the administrative process that resulted in the Department of Defense's new policy regarding military service by transgender individuals.

3. Mary Krueger
Assistant Deputy for Health Affairs
Office of the Assistant Secretary of the Army for Manpower and Reserve Affairs
Washington, D.C.

Ms. Krueger has non-privileged information about Department of Defense and Army policies related to the health care of transgender individuals and information about the health care needs of transgender individuals in military service.

4. Martha Soper
Assistant Deputy, Health Policy
Office of the Secretary of the Air Force Assistant Secretary (Reserve Affairs & Airman Readiness)
Washington, D.C.

Ms. Soper has non-privileged information about Department of Defense and Air Force policies related to the health care of transgender individuals and information about the health care needs of transgender individuals in military service.

II. Documents That May Be Relied Upon By Defendants In Support of Their Defenses

1. Department of Defense Report and Recommendations on Military Service by Transgender Persons, dated February 2018.

2. Memorandum for the President Regarding Military Service by Transgender Individuals, sent by Secretary of Defense Mattis and dated February 22, 2018.
3. Documents included in the Administrative Record, provided to Plaintiffs and Washington with a cover letter dated April 25, 2018.

Index for Administrative Record

Page	Document
000001-000011	Under Secretary of Defense for Personnel and Readiness, "Fiscal Year 2016 Report to Congress on the Review of Enlistment of Individuals with Disabilities in the Armed Forces" (Apr. 2016)
000012-000022	<i>The Essential Holmes: Selections from the Letters, Speeches, Judicial Opinions, and Other Writings of Oliver Wendell Holmes, Jr.</i> , p. 93 (Richard Posner, ed., Univ. of Chicago Press 1992)
000023-000031	Johnathan Shay, <i>Achilles in Vietnam</i> , p. 61, 198 (Atheneum 1994)
000032-000033	Under Secretary of Defense for Personnel and Readiness, "DoD Retention Policy for Non-Deployable Service Members" (Feb. 14, 2018)
000034-000092	The Lewin Group, Inc., "Qualified Military Available (QMA) and Interested Youth: Final Technical Report" (Sept. 2016)
000093-000192	RAND National Defense Research Institute, <i>Assessing the Implications of Allowing Transgender Personnel To Serve Openly</i> (RAND Corporation 2016), available at https://www.rand.org/content/dam/rand/pubs/research_reports/RR1500/RR1530/RAND_RR1530.pdf ("RAND Study")
000193-000198	Human Rights Campaign, "Understanding the Transgender Community," https://www.hrc.org/resources/understanding-the-transgender-community (last visited Feb. 14, 2018)
000199-000209	<i>Diagnostic and Statistical Manual of Mental Disorders</i> (DSM-5), p. 453 (5 th ed. 2013)
000210-000261	Department of Defense Instruction (DoDI) 6130.03, <i>Medical Standards for Appointment, Enlistment, or Induction in the Military Services</i> (Apr. 28, 2010), incorporating Change 1, (Sept. 13, 2011)
000262-000269	Department of Defense Instruction (DoDI) 6485.01, <i>Human Immunodeficiency Virus (HIV) in Military Service Members</i> (Jun. 7, 2013)
000270-000284	American Psychiatric Association, <i>Diagnostic and Statistical Manual of Mental Disorders (DSM-III)</i> , pp. 261-264 (3rd ed. 1980)
000285-000298	American Psychiatric Association, <i>Diagnostic and Statistical Manual of Mental Disorders (DSM-III-R)</i> , pp. 76-77 (3rd ed. Revised 1987)
000299-000309	American Psychiatric Association, <i>Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)</i> , pp. 532-538 (4th ed. 1994)
000310-000313	Hayes Directory, "Sex Reassignment Surgery for the Treatment of Gender Dysphoria," p. 1 (May 15, 2014)
000314-000318	Irene Folaron & Monica Lovasz, "Military Considerations in Transsexual Care of the Active Duty Member," <i>Military Medicine</i> , Vol. 181 (2016)

000319	Memorandum from Ashton Carter, Secretary of Defense, "Transgender Service Members" (July 28, 2015)
000320-000325	Memorandum from Ashton Carter, Secretary of Defense, "Directive-type Memorandum (DTM) 16-005, 'Military Service of Transgender Service Members'" (June 30, 2016)
000326	Memorandum from James N. Mattis, Secretary of Defense, "Accession of Transgender Individuals into the Military Services" (June 30, 2017)
000327-000329	Memorandum from Donald J. Trump, President of the United States, "Military Service by Transgender Individuals" (Aug. 25, 2017)
000330-000331	Memorandum from James N. Mattis, Secretary of Defense, "Terms of Reference -- Implementation of Presidential Memorandum on Military Service by Transgender Individuals" (Sept. 14, 2017)
000332-000351	Deployment Health Clinical Center, "Mental Health Disorder Prevalence Among Active Duty Service Members in the Military Health System, Fiscal Years 2005-2016" (Jan. 2017)
000352-000356	American Psychiatric Association, "Expert Q&A: Gender Dysphoria," available at https://www.psychiatry.org/patients-families/gender-dysphoria/expert-qa (last visited Feb. 14, 2018)
000357-000378	M. Jocelyn Elders, George R. Brown, Eli Coleman, Thomas Kolditz & Alan Steinman, "Medical Aspects of Transgender Military Service, Armed Forces & Society (Mar. 2014)
000379-000393	Cecilia Dhejne, Roy Van Vlerken, Gunter Heylens & Jon Arcelus, "Mental health and gender dysphoria: A review of the literature," <i>International Review of Psychiatry</i> , Vol. 28 (2016)
000394-000405	George R. Brown & Kenneth T. Jones, "Mental Health and Medical Health Disparities in 5135 Transgender Veterans Receiving Healthcare in the Veterans Health Administration: A Case-Control Study," <i>LGBT Health</i> , Vol. 3 (Apr. 2016)
000406-000423	Ann P. Haas, Philip L. Rodgers & Jody L. Herman, <i>Suicide Attempts Among Transgender and Gender Non-Conforming Adults: Findings of the National Transgender Discrimination Survey</i> (American Foundation for Suicide Prevention and the Williams Institute, University of California, Los Angeles, School of Law 2014), available at https://williamsinstitute.law.ucla.edu/wp-content/uploads/AFSP-Williams-Suicide-Report-Final.pdf
000424-000429	H.G. Virupaksha, Daliboyina Muralidhar, & Jayashree Ramakrishna, "Suicide and Suicidal Behavior Among Transgender Persons," <i>Indian Journal of Psychological Medicine</i> , Vol. 38 (2016)
000430-000437	Claire M. Peterson, Abigail Matthews, Emily Copps-Smith & Lee Ann Conard, "Suicidality, Self-Harm, and Body Dissatisfaction in Transgender Adolescents and Emerging Adults with Gender Dysphoria," <i>Suicide and Life-Threatening Behavior</i> , Vol. 47, (Aug. 2017)

000438-000449	Raymond P. Tucker, Rylan J. Testa, Mark A. Reger, Tracy L. Simpson, Jillian C. Shipherd, & Keren Lehavot, "Current and Military-Specific Gender Minority Stress Factors and Their Relationship with Suicide Ideation in Transgender Veterans," <i>Suicide and Life Threatening Behavior</i> DOI: 10.1111/sltb.12432 (epub ahead of print) (2018)
000450-000457	Craig J. Bryan, AnnaBelle O. Bryan, Bobbie N. Ray-Sannerud, Neysa Etienne & Chad E. Morrow, "Suicide attempts before joining the military increase risk for suicide attempts and severity of suicidal ideation among military personnel and veterans," <i>Comprehensive Psychiatry</i> , Vol. 55 (2014)
000458-000462	Hayes Directory, "Hormone Therapy for the Treatment of Gender Dysphoria," (May 19, 2014).
000463-000497	Wylie C. Hembree, Peggy Cohen-Kettenis, Louis Gooren, Sabine Hannema, Walter Meyer, M. Hassan Murad, Stephen Rosenthal, Joshua Safer, Vin Tangpricha, & Guy T'Sjoen, "Endocrine Treatment of Gender-Dysphoric/Gender Incongruent Persons: An Endocrine Society Clinical Practice Guideline," <i>The Journal of Clinical Endocrinology & Metabolism</i> , Vol. 102 (Nov 2017)
000498-000505	Cecilia Dhejne, Paul Lichtenstein, Marcus Boman, Anna L. Johansson, Niklas Långström & Mikael Landén, "Long-Term Follow-Up of Transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden," <i>PLoS One</i> , Vol. 6 (Feb. 2011)
000506-000520	Hayes Annual Review, "Sex Reassignment Surgery for the Treatment of Gender Dysphoria" (Apr. 18, 2017; Apr. 12, 2016; May 11, 2015)
000521-000526	Memorandum from Defense Health Agency, "Information Memorandum: Interim Defense Health Agency Procedures for Reviewing Requests for Waivers to Allow Supplemental Health Care Program Coverage of Sex Reassignment Surgical Procedures" (Nov. 13, 2017)
000527-000725	University of California, San Francisco, Center of Excellence for Transgender Health, "Guidelines for the Primary and Gender-Affirming Care of Transgender and Gender Nonbinary People," available at http://transhealth.ucsf.edu/trans?page=guidelines-home (last visited Feb. 16, 2018)
000726-001027	Sandy E. James, Jody L. Herman, Susan Rankin, Mara Keisling, Lisa Mottet & Ma'ayan Anafi, <i>The Report of the 2015 U.S. Transgender Survey</i> (National Center for Transgender Equality 2016), available at https://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF
001028-001177	Tamara Jensen, Joseph Chin, James Rollins, Elizabeth Koller, Linda Gousis & Katherine Szarama, "Final Decision Memorandum on Gender Reassignment Surgery for Medicare Beneficiaries with Gender Dysphoria," Centers for Medicare & Medicaid Services (Aug. 30, 2016) ("CMS Report")
001178-001195	Mohammad Hassan Murad, Mohamed B. Elamin, Magaly Zumaeta Garcia, Rebecca J. Mullan, Ayman Murad, Patricia J. Erwin & Victor M. Montori, "Hormonal therapy and sex reassignment: a systematic review and meta-analysis of quality of life and psychosocial outcomes," <i>Clinical Endocrinology</i> , Vol. 72 (2010)

001196-001215	<i>United States v. Virginia</i> , 518 U.S. 515 (1996)
001216-001283	Department of the Army, Training and Doctrine Command, TRADOC Regulation 350-6, “Enlisted Initial Entry Training Policies and Administration” (Mar. 20, 2017)
001284-001289	Department of the Air Force, Air Force Instruction 32-6005, “Unaccompanied Housing Management” (Jan. 29, 2016)
001290-001291	Department of the Army, Human Resources Command, AR 600-85, “Substance Abuse Program” (Dec. 28, 2012)
001292-001333	Department of the Army, Army Regulation 600-9, “The Army Body Composition Program” (June 28, 2013)
001334-001392	Department of the Navy, Office of the Chief of Navy Operations Instruction 6110.1J, “Physical Readiness Program” (July 11, 2011)
001393-001539	Department of the Air Force, Air Force Instruction 36-2905, “Fitness Program” (Aug. 27, 2015)
001540-001603	Department of the Navy, Marine Corps Order 6100.13, “Marine Corps Physical Fitness Program” (Aug. 1, 2008)
001604-001608	Department of the Navy, Marine Corps Order 6110.3A, “Marine Corps Body Composition and Military Appearance Program” (Oct. 12, 2017)
001609-001661	Department of the Navy, Marine Corps Order 6110.3A CH-1, “Marine Corps Body Composition and Military Appearance Program” (Dec. 15, 2016)
001662-001693	United States Military Academy, Office of the Commandant of Cadets, “Physical Program Whitebook AY 16-17,” p. 13
001694-002099	Headquarters, Department of the Army, TC 3-25.150, “Combatives” (Feb. 2017)
002100-002109	Major Alex Bedard, Major Robert Peterson & Ray Barone, “Punching Through Barriers: Female Cadets Integrated into Mandatory Boxing at West Point,” Association of the United States Army (Nov. 16, 2017), https://www.ausea.org/articles/punching-through-barriers-female-cadets-boxing-west-point
002110-002112	International Olympic Committee Consensus Meeting on Sex Reassignment and Hyperandrogenism (Nov. 2015), https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf
002113-002150	NCAA Office of Inclusion, NCAA Inclusion of Transgender Student-Athletes (Aug. 2011), https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf
002151-002153	Department of the Navy, Navy Personnel Command, Navy Personnel Instruction 15665I, “Uniform Regulations,” Art. 2101.1, (modified 12/21/2017)
002154-002221	Department of the Army, Army Regulation 670-1, “Wear and Appearance of Army Uniforms and Insignia” (Mar. 31, 2014)

002222-002329	Department of the Air Force, Air Force Instruction 36-2903, "Dress and Personal Appearance of Air Force Personnel" (Feb. 9, 2017)
002330-002413	Department of the Navy, Marine Corps Order P1020.34G, "Marine Corps Uniform Regulations" (Mar. 31, 2003)
002414-002431	Department of Defense Instruction 1300.28, <i>In-Service Transition for Service Members Identifying as Transgender</i> (June 30, 2016)
002432-002583	Institute for Defense Analyses, "Force Impact of Expanding the Recruitment of Individuals with Auditory Impairment" Draft Final (January 2016)
002584-002614	Modification Thirteen to U.S. Central Command Individual Protection and Individual-Unit Deployment Policy, Tab A (Mar. 2017)
002615-002619	Memorandum from the Assistant Secretary of Defense for Health Affairs, "Clinical Practice Guidance for Deployment-Limiting Mental Disorders and Psychotropic Medications" (Oct. 7, 2013)
002620-002624	National Institute of Mental Health, "Bipolar Disorder" (Nov. 2017), https://www.nimh.nih.gov/health/statistics/bipolar-disorder.shtml
002625-002627	National Institute of Mental Health, "Schizophrenia" (Nov. 2017), https://www.nimh.nih.gov/health/statistics/schizophrenia.shtml
002628	Douglas MacAurthur, <i>Respectfully Quoted: A Dictionary of Quotations</i> (1989), available at http://www.bartleby.com/73/1874.html
002629-002781	Nathaniel Frank, "Gays in Foreign Militaries 2010: A Global Primer" (<i>The Palm Center</i> , Feb. 2010), https://www.palmcenter.org/wpcontent/uploads/2017/12/FOREIGNMILITARIESPRIMER2010FINAL.pdf
002782-002802	Anne Speckhard & Reuven Paz, "Transgender Service in the Israeli Defense Forces: A Polar Opposite Stance to the U.S. Military Policy of Barring Transgender Soldiers from Service" (2014), http://www.researchgate.net/publication/280093066
002803-002816	Alan Okros & Denise Scott, "Gender Identity in the Canadian Forces," <i>Armed Forces and Society</i> , Vol. 41 (2014)
002817-002820	Leo Shane III, "Poll: Active-duty troops worry about military's transgender policies," <i>Military Times</i> (July 27, 2017), available at https://www.militarytimes.com/news/pentagon-congress/2017/07/27/poll-active-duty-troops-worry-about-militarys-transgender-policies/
002821-002824	Minutes, POE Meeting 1 (Oct. 13, 2017)
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002853-002856	Slides With Office of People Analytics, 2016 Workplace and Gender Relations Survey of Active Duty Members: Transgender Service Members (Survey Results)

002857	Agenda, POE Meeting 2 (Oct. 19, 2017)
002858-002866	Transgender Policy Panel Meeting Background Information Slides (Oct. 19, 2017)
002867-002880	DoD Transgender Service in the U.S. Military, Implementation Handbook (excerpts) (Sept. 30, 2016)
002881	Agenda, POE Meeting 3 (Oct. 26, 2017)
002882	Agenda, POE Meeting 4 (Nov. 2, 2017)
002883-002904	Health Data for Service Members with Gender Dysphoria (Nov. 2, 2017)
002905	Agenda, POE Meeting 5 (Nov. 9, 2017)
002906	Agenda, POE Meeting 6 (Nov. 16, 2017)
002907-002910	Non-deployable Working Group Information Briefing (Nov. 16, 2017)
002911-002940	Medical and Surgical Treatment for Gender Dysphoria (Nov. 7, 2017)
002941	Comparison of Civilian Insurers and MHS
002942	Agenda, POE Meeting 7 (Nov. 21, 2017)
002943-002963	2015 Transgender Survey (December 2016) and Additional Administrative Data (Nov. 21, 2017)
002964	Reasons for Separation (table)
002965	Agenda, POE Meeting 8 (Nov. 30, 2017)
002966-002976	Admin Data Presented During Panel Meetings
002977	Agenda, POE Meeting 9 (Dec. 7, 2017)
002978-002981	The Federal Aviation Administration (FAA) and Gender Dysphoria (Dec. 4, 2017)
002982-002985	Time To Return to Full Duty After Transition Surgery in MTFs (slide deck)
002986-002997	Admin Data Presented During Panel Meetings (version 2)
002998	Agenda, POE Meeting 10 (Dec. 13, 2017)
002999-003010	Data Extracts: Key information used by the Panel to make recommendations
003011-003042	Health Data on Active Duty Service Members with Gender Dysphoria (Dec. 13, 2017)
003043-003055	Admin Data Presented During Panel Meeting (version 3)
003056	Agenda, POE Meeting 11 (Dec. 22, 2017)
003057	Agenda, POE Meeting 12 (Jan. 4, 2018)
003058	Agenda, POE Meeting 13 (Jan. 11, 2018)
003059-003067	Action Memo from Under Secretary of Defense (Personnel and Readiness) to the Secretary of Defense re: Recommendations by the Transgender Review Panel of Experts (Jan. 11, 2018)
003068-003075	Hormone Therapy White Paper

Date: May 11, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on May 11, 2018, a copy of the document above was served by

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