

The Honorable Marsha J. Pechman

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**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 ANDREW E.  
CARMICHAEL**

1 I, Andrew E. Carmichael, swear under penalty of perjury under the laws of the United States  
2 to the following:

3 1. I am a Trial Attorney at the United States Department of Justice and counsel of  
4 record for Defendants in this action. I submit this declaration in support of Defendants' Opposition  
5 to Plaintiffs' Renewed Motion to Compel Documents Withheld Under the Deliberative Process  
6 Privilege. I base this declaration on my personal knowledge, as well as on information acquired by  
7 me or made available to me in the course of performing my official duties.

8 2. In accordance with the Court's Amended Order, Dkt. 344, on July 17, 2019, counsel  
9 for Plaintiffs, Plaintiff-Intervenor, and Defendants met and conferred in an attempt to narrow any  
10 remaining discovery disputes following the Ninth Circuit's issuance of the writ of mandamus.  
11 During that call, Plaintiffs' counsel stated that Plaintiffs again request the disclosure of all documents  
12 withheld under the deliberative process privilege. In an attempt to narrow the dispute, Defendants'  
13 counsel requested that Plaintiffs identify specific documents or, at the very least, discrete categories  
14 of documents, for which they believed they have a strong need and over which they would like  
15 Defendants to consider waiving the deliberative process privilege. I explained that this is the process  
16 that occurred in the related *Doe v. Esper* litigation, resulting in Defendants waiving the privilege and  
17 producing certain deliberative documents, and ultimately a more narrowed discovery dispute being  
18 presented to the court in *Doe*. More specifically, I explained that in *Doe*, the plaintiffs identified four  
19 discrete categories of documents withheld under the deliberative process privilege and requested that  
20 Defendants waive their assertions of the privilege over those documents. I further explained that in  
21 response to that request and in an effort to narrow the remaining discovery disputes in *Doe*,  
22 Defendants agreed to waive the deliberative process privilege over three discrete categories of  
23 documents: (1) the official recommendations from the Military Services and the Surgeons General  
24 to then-Secretary Mattis related to the delay of the Carter accessions policy in June 2017; (2) emails  
25 between then-Secretary Mattis and non-governmental third parties; and (3) the final versions of the  
26 briefing presentations given by the Panel of Experts to the Deputy Secretary of Defense, the Vice  
27  
28

1 Chairman of the Joint Chiefs of Staff, and the Secretary of Defense.<sup>1</sup> I informed Plaintiffs' counsel  
2 in this case that Defendants had sent them a production in May 2019 that included these same  
3 documents (the ones over which Defendants had waived the deliberative process privilege in *Doe*),  
4 and inquired whether Plaintiffs received the production. Plaintiffs' counsel did not know whether  
5 they received the production.

6 3. During the July 17, 2019 call, I further explained that in *Doe* Defendants declined to  
7 waive the deliberative process privilege over certain additional categories requested by the *Doe*  
8 plaintiffs, which included documents considered or generated by the Panel of Experts, as well as  
9 communications to or from members of the Panel regarding their work, and communications that  
10 followed the submission of the Panel's report but predated the publication of the implementation  
11 plan.<sup>2</sup> Nevertheless, although Defendants declined to waive the deliberative process privilege over  
12 these documents, I explained that Defendants produced "*Vaughn* Indexes" to the *Doe* plaintiffs  
13 encompassing these remaining documents in dispute so that the plaintiffs could review the indexes  
14 to determine which of those documents to move to compel. I further explained that the *Doe*  
15 plaintiffs used the "*Vaughn* Indexes" to file their motion to compel specific documents listed on the  
16 the indexes.<sup>3</sup> I told Plaintiffs' counsel in this case that Defendants would provide the same "*Vaughn*  
17 Indexes" to Plaintiffs.

18 4. On July 25, 2019, Plaintiffs sent me a letter in which they requested that Defendants  
19 disclose all deliberative documents. *See* Letter from Siegfried to Carmichael 2 (July 25, 2019), Dkt.  
20 365-55. Plaintiffs then also identified nine broad categories of documents and contended that the  
21 deliberative process privilege did not apply at all to those documents or that Plaintiffs' need for the  
22 materials overrode Defendants' interest in non-disclosure. *See id.* at 2–3. Plaintiffs inquired whether  
23 Defendants would waive the privilege over those nine broad categories of documents. *Id.* at 3.

24 5. On August 2, 2019, I responded to Plaintiffs' letter. Letter from Carmichael to  
25 Siegfried (Aug. 2, 2019), Dkt. 365-56. In that letter, I stated that "the categories you have identified

26 <sup>1</sup> *See* Minute Order, *Doe v. Esper*, No. 17-cv-1597 (D.D.C. Apr. 9, 2019); Tr. of Telephone Conf., *Doe v. Esper*, No. 17-  
27 cv-1597 (D.D.C. Apr. 9, 2019), Dkt. 202.

<sup>2</sup> *See* Minute Order, *Doe v. Esper*, No. 17-cv-1597 (D.D.C. Apr. 9, 2019); *see also* Tr. of Telephone Conf., *Doe v. Esper*,  
28 No. 17-cv-1597 (D.D.C. Apr. 9, 2019), Dkt. 202.

<sup>3</sup> *See* Pls.' Mot. to Compel, *Doe v. Esper*, No. 17-cv-1597 (D.D.C. June 6, 2019), Dkt. 216.

1 appear to cover virtually all deliberative documents from July 2015 to present.” *Id.* at 2. I further  
2 stated that “it would be more productive for Plaintiffs to identify specific documents from  
3 Defendants privilege logs (or, at the very least, discrete categories of documents) over which they  
4 would like Defendants to consider waiving the deliberative process privilege.” *Id.* I attached the  
5 “*Vaughn* Indexes” that were “revised for the related *Doe* litigation and specifically include documents  
6 considered or generated by the Panel of Experts as well as communications to or from members of  
7 the Panel regarding their work over which Defendants have asserted the deliberative process  
8 privilege” and stated that “the documents identified on these logs are the only ones that are even  
9 relevant under the standard of review articulated by the Ninth Circuit.” *Id.* at 2–3. I again  
10 “propose[d] that Plaintiffs review the attached logs from *Doe* and identify specific documents (or  
11 narrow categories of documents) over which you would like Defendants to reconsider their assertion  
12 of the deliberative process privilege.” *Id.* at 3. I also explained how the Department of Defense  
13 (“DoD”) conducted its searches for documents responsive to Plaintiffs’ discovery requests and how  
14 it conducted its privilege review. *See id.* at 1–2.

15 6. On August 9, 2019, counsel for Plaintiffs, Plaintiff-Intervenor, and Defendants met  
16 and conferred again. I was on leave and not present for this meeting, but I am informed that the  
17 following discussion occurred regarding Defendants’ withholdings under the deliberative process  
18 privilege. During the call, defense counsel stated that Plaintiffs’ categories from their July 25 letter  
19 were too broad because they cover virtually all of DoD’s deliberative documents. Defense counsel  
20 reiterated that Plaintiffs should identify specific documents or discrete categories of documents over  
21 which they would like Defendants to waive the deliberative process privilege, as the plaintiffs did in  
22 *Doe*. Plaintiffs’ counsel acknowledged that their categories covered virtually all of DoD’s deliberative  
23 documents but declined to narrow them.

24 7. Attached to this declaration as Exhibit 1 is a true and correct copy of the declaration  
25 of Robert Easton, Director of the Office of Litigation Counsel at the Department of Defense.

26 8. Attached to this declaration as Exhibit 2 is a true and correct copy of the meeting  
27 minutes from the Panel of Experts review panel conducted on October 26, 2017 as they appear in  
28 the administrative record.

1           9.       On October 10, 2018, Defendants sent a revised production 14 to Plaintiffs  
2 encompassing documents Bates numbered USDOE00180719 – USDOE00237764. Attached as  
3 Exhibit 3 is a true and correct copy of Defendants’ production letter.

4           10.       Included in Defendants revised production 14 was USDOE00206512-13. Attached  
5 as Exhibit 4 is a true and correct copy of USDOE00206512-13 as it was produced in revised  
6 production 14.

7           11.       On September 10, 2018, Plaintiffs’ counsel served their Expert Reports on  
8 Defendants. Attached as Exhibit 5 is a true and correct copy of the Expert Report of Margaret C.  
9 Wilmoth served on Defendants by Plaintiffs’ counsel on September 10, 2018.

10          12.       On August 23, 2019, Plaintiffs’ counsel sent me a letter requesting *inter alia*  
11 clarification regarding Defendants’ document productions and discovery responses as they pertain  
12 to Defendants’ communications with or documents referencing the following third parties: Dr. Paul  
13 McHugh, Dr. Chester Schmidt, and Dr. Thomas Wise. Plaintiffs’ counsel specifically requested that  
14 Defendants produce communications with or documents referencing these individuals. Attached as  
15 Exhibit 6 is a true and correct copy of Plaintiffs’ counsel’s letter.

16          13.       On September 13, 2019, I responded to Plaintiffs’ counsel’s letter with my own letter  
17 stating that DoD believes it has reasonably searched for and collected materials that would reflect  
18 communications with or references to the third parties identified in Plaintiffs’ counsel’s August 23,  
19 2019 letter. The letter also informed Plaintiffs’ counsel of the steps DoD took to ensure its search  
20 was reasonable and to ensure it had reasonably collected materials responsive to Plaintiffs request,  
21 that DoD located one additional document of hand written notes that it would withhold pursuant  
22 to the attorney work product privilege, and that pursuant to Plaintiffs’ request DoD would no longer  
23 assert the deliberative process privilege over certain documents which referenced one or more of  
24 the three individuals Plaintiffs had identified. Attached as Exhibit 7 is a true and correct copy of  
25 my letter to Plaintiffs’ counsel.

26          14.       In my September 13, 2019 letter, I identified the documents by Bates number that  
27 DoD had previously produced which reflected communications with or references to Dr. Paul  
28 McHugh, Dr. Chester Schmidt, or Dr. Thomas Wise and the documents by Bates number over

1 which DoD would no longer assert the deliberative process privilege. One of those documents is  
2 an email from Major General (Ret.) Margaret Wilmoth to Dr. Karen Guice and Dr. Karen Guice's  
3 response. That document has the following Bates number USDOE00238554. Attached as Exhibit  
4 8 is a true and correct copy of USDOE00238554. A portion of USDOE00238554 is still being  
5 withheld pursuant to the attorney client and attorney work product privileges.

6 15. On April 12, 2019, Plaintiffs served their Third Set of Requests for Production on  
7 Defendants. A true and correct copy of those requests are attached hereto as Exhibit 9.

8  
9 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true  
10 and correct.

11  
12 EXECUTED this 13th day of September, 2019.

13 */s/ Andrew E. Carmichael*  
14 Andrew E. Carmichael  
15 Trial Attorney  
16 United States Department of Justice  
17 Civil Division, Federal Programs Branch  
18 1100 L Street, N.W.  
19 Washington, DC 20530  
20 Tel: (202) 514-3346  
21 Email: andrew.e.carmichael@usdoj.gov

22 *Counsel for Defendants*

# Exhibit 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RYAN KARNOSKI, *et al.*,

Plaintiffs, and

STATE OF WASHINGTON,

Plaintiff-Intervenor,

v.

DONALD J. TRUMP, in his official capacity  
as President of the United States, *et al.*,

Defendants.

No. 17-cv-01297 (MJP)

**DECLARATION OF ROBERT E.  
EASTON IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' RENEWED  
MOTION TO COMPEL (ECF 364)  
DOCUMENTS WITHHELD  
UNDER THE DELIBERATIVE  
PROCESS PRIVILEGE**

**DECLARATION OF ROBERT E. EASTON**

I, Robert E. Easton, do hereby declare as follows:

1. I currently serve as Director, Office of Litigation Counsel, in the Department of Defense (“DoD”) Office of General Counsel (“OGC”). I have held this position since 2006. In this capacity, I supervise the conduct and oversight of litigation of Departmental significance, including matters involving senior DoD leaders, and coordinate litigation among the Military Departments, Defense Agencies, and Field Activities.

2. In the exercise of my official duties, I have been made aware of this lawsuit and the three other cases involving the March 12, 2019 DoD Policy on Military Service by Transgender Persons and Persons with Gender Dysphoria.

3. I submit this declaration in support of Defendants' Opposition to Plaintiffs' Renewed Motion to Compel Documents Withheld Under the Deliberative Process Privilege. I base this declaration on my personal knowledge and information made available to me in the performance of my official duties.

### **DoD Search and Review Process**

4. In their Renewed Motion to Compel Documents Withheld Under the Deliberative Process Privilege, ECF No. 364, Plaintiffs seek to compel Defendants to disclose all documents and information withheld pursuant to the deliberative process privilege.

5. As explained in detail in my previous declaration,<sup>1</sup> DoD conducted a thorough and in-depth search and collection of files and documents potentially relevant to the claims and defenses in response to this and the three other lawsuits challenging DoD's policies regarding military service by transgender individuals and individuals with gender dysphoria. This process involved identifying custodians likely to have relevant information and working with them and the DoD Information Technology ("IT") personnel to gather these records. Once the responsive information was gathered, both through digital collections at the server level and with supplemental self-collections, it was sent to DOJ attorneys for processing in their eDiscovery software, Relativity. This information was then organized within these databases as it was collected and as it would appear in the ordinary course of business—by DoD or Military Service

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<sup>1</sup> Declaration of Robert E. Easton, *Karnoski, et al. v. Trump, et al.*, No. 17-cv-01297 (W.D. Wash. Aug. 29, 2019), ECF 371-1.

component and custodian. The data were de-duplicated and batched, and then DoD's responsiveness and privilege review began.

6. The DoD document review process was similarly comprehensive. *See id.* at 6-9. Reviewers were trained on the mechanics and criteria for review, how to determine whether documents were responsive and privileged, and how to code documents in Relativity. Reviewers were further informed that responsiveness and privilege determinations should be made in succession while reviewing a document and completed before moving to the next document unless there were questions. Importantly, beyond determining whether a document was responsive, DoD did not apply blanket non-privilege or privilege objections to exclude reviewed documents from production. Privilege determinations were made only after a document was determined to be responsive, and as I stated in my earlier declaration, no custodians, documents, or batches were excluded from review because they contained privileged information. *Id.* at 8.

7. In each instance where DoD claimed privilege over a particular document or portion of a document, that claim of privilege was expressly made on one of the 53 privilege logs produced by DoD in these cases. The logs included the following metadata: author of the email or creator of the document, recipient of any email, date of creation or date the email was sent, title of the document, a privilege determination, and basis for the privilege determination. Again, this information was provided for every document that DoD withheld as privileged in this case.

#### **Documents and Privilege Objections Previously Provided to Plaintiffs**

8. Defendants have long since provided Plaintiffs with individualized privilege objections, a description of the documents being withheld pursuant to those individualized privilege objections, and many of the documents they claim to seek through this motion. For example, Secretary Mattis' decision and the Panel of Experts' recommendations, documents

Plaintiffs claim to seek in their sixth of nine categories identified in their motion, *see* Pls.’ Mot. at 7, were either provided to Plaintiffs and filed on the docket in related cases<sup>2</sup> or appear unredacted in the administrative record.<sup>3</sup> Documents from Plaintiffs’ fifth category—“testimony, documents, and data the Panel received[,]” *see id.*—were also included in the Administrative Record provided to Plaintiffs in the spring of 2018.<sup>4</sup> And other materials such as the Panel of Experts briefings to the Secretary of Defense and the Deputy Secretary of Defense (recently provided in *Doe v. Esper, et al.*), which would presumably fall into several of Plaintiffs’ categories, have been provided in discovery.<sup>5</sup>

9. In other categories such as the Carter policy implementation, relevant documents have been provided and in many cases posted in the public domain for years. For example, the policy and implementation guidebooks for DoD and the military services are all online.<sup>6</sup> Likewise, DoD has posted official implementing guidelines for DoD’s new policy online or will provide that official guidance to Plaintiffs in a forthcoming production as indicated on its responses to requests for production of documents.<sup>7</sup>

10. Similarly, DoD has produced documents that correspond to each of the other categories identified by the Plaintiffs. For example, DoD produced DoD Instruction 1300.28, “In Service Transition for Transgender Service Members,” which is an operative military policy and

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<sup>2</sup> *See* Dkt. 216-1; Administrative\_Record\_003059-60.

<sup>3</sup> Administrative\_Record\_003059.

<sup>4</sup> *See, e.g.*, Administrative\_Record\_000357; Administrative\_Record\_002858; Administrative\_Record\_000093; Administrative\_Record\_002883; Administrative\_Record\_002999; Administrative\_Record\_003044.

<sup>5</sup> USDOE00283143 to USDOE00284620.

<sup>6</sup> TRANSGENDER SERVICE IN THE U.S. MILITARY, AN IMPLEMENTATION HANDBOOK (Sept. 30, 2016), [https://dod.defense.gov/Portals/1/features/2016/0616\\_policy/DoDTGHandbook\\_093016.pdf](https://dod.defense.gov/Portals/1/features/2016/0616_policy/DoDTGHandbook_093016.pdf).

<sup>7</sup> Directive-type Memorandum (DTM)-19-004 – Military Service by Transgender Persons and Persons with Gender Dysphoria (Mar. 12, 2019), *available at* <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dtm/DTM-19-004.pdf?ver=2019-03-13-103259-670.pdf>.

procedure.<sup>8</sup> DoD also produced several documents related to waiver applications and to discharge proceedings. A document representative of this type of information is a presentation produced to Plaintiffs on April 30, 2019 in *Doe* Production 27. It contained information related to waiver requests, statistical information related to costs of medical treatment, and factual information about individuals identified by International Classification of Disease codes related to gender dysphoria.<sup>9</sup> DoD additionally produced or informed the Plaintiffs that the information they were seeking was available in the Administrative Record or in subsequent productions, including documents that provide statistical and factual information on military healthcare generally.<sup>10</sup> Therefore, while Plaintiff's assert that factual information or other information about non-policy matters was withheld, much of what they appear to seek through their motion is either publicly available or was previously produced in one of the many DoD productions.

#### **DoD Conducted an Individualized Privilege Review**

11. DoD's in-depth review and analysis of the relevant data was the result of an individualized privilege review recorded on a privilege log listed on a document-by-document basis. Broadly categorizing these documents, as Plaintiffs suggest, would not lend itself to the analysis necessary to properly review thousands of deliberative process privilege determinations. Each of Plaintiffs' categories comprises thousands of documents and communications generated and transmitted by officials at varying levels in DoD, the Military Services, the Coast Guard, Defense Health Agency, the National Guard Bureau, and the Office of the Chairman of the Joint Chiefs of Staff, both uniformed and civilian career employees and political appointees from two administrations, across numerous ranks, positions, and areas of professional expertise as they

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<sup>8</sup> See, e.g., USDOE00268619-USDOE00268636.

<sup>9</sup> See, e.g., USDOE00284622-USDOE00284631.

<sup>10</sup> See, e.g., Administrative\_Record\_002982; Administrative\_Record\_002999; Administrative\_Record\_003011.

worked to develop and refine DoD's policy over a four-year period. These categories include, for example, communications by lower-level officials who were not a part of the Panel of Experts or the decision-making process; communications among Panel of Experts members; communications that pre-date the formation of the Panel of Experts, in some cases by years; communications to and from the ultimate decision-maker, the Secretary of Defense; and communications that post-date the Secretary's decision by over a year. And these communications span various topics, including analyses of the policy's effectiveness, development of key aspects of the policy such as the months of stability requirement, the personal experiences of commanders and transgender individuals regarding challenges faced under the policy, and discussions about how to address the practical logistics of gender transition when it comes to berthing, showers, bathrooms, and other ground-level issues. Moreover, each category of documents comprises various types of materials including emails, calendars, thousands of pages of draft memoranda, informational briefs, meeting notes, agendas, meeting invitations, spreadsheets, and PowerPoint presentations. Given the breadth of the data set and the fact that this policy was in development for more than three years and spanned two administrations, categorizing the documents as Plaintiffs suggest would encompass virtually all deliberative documents.

12. The first category Plaintiffs identify contains documents and communications regarding the formulation of Secretary of Defense Ashton Carter's policy on military service by transgender individuals. One example of documents in this category is an email between senior DoD personnel discussing a "transgender information paper" that addressed a specific cohort of service members and includes further information on the topic based on questions from leadership. (USDOE00083941). Another example is a draft information paper on various aspects of DoD transgender accessions and retention policies. (USDOE00084011). A third example is a draft

PowerPoint presentation for the Senior Military Medical Action Counsel on military service by transgender individuals dated September 14, 2016. (USDOE00240404). And USDOE00274420 and USDOE00276750 are documents that discuss the Transgender Service Review Working Group's proposed courses of action as well as a presentation reflecting input from active duty Service members. Although Secretary Carter's policy is no longer in effect, the genesis of the policy and the internal deliberations of many of the policy makers who were part of the current policy are captured in these documents. Moreover, these documents are representative of internal back-and-forth conversations and dialogue and include deliberations at various levels within DoD and the Military Services, including the highest levels of DoD, while the Carter policy was being developed by DoD personnel, some of whom later worked on the Mattis policy. These documents do not lend themselves to a one-size-fits-all analysis because they span different administrations and therefore reflect different individuals filling the same role, personnel serving in an "acting" capacity, and personnel who have since retired from government service. These nuances must be accounted for when reviewing these documents.

13. Another category of documents that Plaintiffs identify contains documents and communications regarding the implementation of Secretary Carter's policy on military service by transgender individuals. An example of documents in this category is a draft presentation for a Transgender Senior Implementation Group meeting that contains questions from the Services about implementation of the Carter policy, as well as Service inputs for the implementation plan. (USDOE00273728). A November 3, 2016 informational update for leadership on the implementation status of medical care for transgender personnel in the Military Services and TRICARE beneficiaries, which included the status of implementation guidance, training materials, and medical care for transgender personnel. (USDOE00240400). Another example is an email

and a reply sent on December 19, 2017 between DoD personnel regarding clarifying guidance to the field on transgender applicant processing at the military entrance processing stations given the ongoing deliberations. (USDOE00083070). A final example is an email sent on December 27, 2017 from the Military Assistant to the Vice Chairman of the Joint Chiefs of Staff to a senior DoD executive. (USDOE00083056). This document seeks updates that may have been provided to leadership on the progress of the transgender working groups. Like the formulation documents identified above, many of the career DoD personnel who developed the Carter policy were part of the Mattis policy development and their mental impressions, opinions, and deliberations are captured throughout these documents.

14. The third category involves documents withheld under the Deliberative Process privilege that were sent, received, or created between January 20, 2017 and July 27, 2017. A review of Relativity revealed that more than 5,000 documents in the DoD data set alone would fall within this broad category. One example of these documents is an information paper for the Deputy Secretary of Defense providing a background on the DoD transgender policy. (USDOE00073666). Another example is a draft version of DoDI 6130.03, the regulation that sets forth the medical standards for military accessions. This version includes redline edits and comments by editors in the margins. (USDOE00129756). A third example is an email between senior DoD personnel regarding draft language for DoD leadership's Congressional testimony. (USDOE00136085). And a final example is an email between DoD personnel and Coast Guard personnel regarding Coast Guard participation in the Transgender Senior Implementation Group. (USDOE00087789). These documents are vastly different in purpose, scope, and audience. One was drafted for the second most senior individual in DoD, the next was a working copy of a regulation, and the third represents concerns raised before DoD personnel testified before

Congress. While Plaintiffs' categories would treat these documents the same, the purpose, scope, and audience all factor into the appropriate legal analysis.

15. The next three categories consist of documents that concern the DoD Panel of Experts. One example is an email chain between senior DoD personnel regarding attendance by specific people at Panel of Experts meetings and who should attend. (USDOE00083080-USDOE00083082). A second email in this category reflects a discussion about draft minutes from the eighth meeting of the Panel and also contains discussion about how the DoD medical community is defining terms from various DoD instructions applicable to military personnel policy. (USDOE00083180). A third example is an email between senior DoD personnel about a draft communication to the Panel that was circulated for review and feedback. (USDOE00083181). A fourth example is an email sent on December 27, 2017 from the Military Assistant to the Vice Chairman of the Joint Chiefs of Staff to a senior DoD executive. This document seeks updates that may have been provided to leadership on the progress of the transgender working groups. (USDOE00083056). A final example is an email between senior DoD personnel capturing the criteria for the selection of individuals on the Panel and leadership's expectations as to how these individuals should approach their work on the Panel. (USDOE00083199). These documents are representative examples of the internal back-and-forth conversations that took place at the highest levels of DoD while the Panel of Experts reviewed and developed policy.

16. As I have previously stated, *supra* ¶ 8, DoD produced Secretary Mattis' decision, the Panel of Experts recommendation (including briefings by the Chair of the Panel to the Secretary, Deputy Secretary, and the Vice Chief of the Joint Staff), and the evidence the Panel reviewed (unless that evidence was inextricably intertwined with Panel deliberations).

Accordingly, the documents withheld pursuant to the deliberative process privilege from these categories generally include documents that relate to communications about the specifics of Panel meetings, discussions about draft communications to the Panel, drafts of presentations given to or reviewed by the Panel, the work of the Panel and progress it was making, and attendance at Panel meetings.<sup>11</sup> A categorical approach therefore would necessarily encompass a myriad of these varying types of documents that had no bearing on the Panel of Expert's decision-making process.

17. The seventh category consists of withheld documents related to the February 2018 Report and to Secretary of Defense James Mattis' February 23, 2018 Memorandum. USDOE00069244 is a draft version of the February 2018 Report. USDOE00194076 is an email communication regarding edits to a draft version of the February 2018 Report that was received by the US Army. Another example is a draft executive summary of the recommendations made by the Panel of Experts. (USDOE00083031). This document contains high-level summaries of the Panel's analysis, summarizes the data the Panel received, and captures the Panel's recommendations. Another example is a document containing draft talking points for leadership as DoD prepared to issue Secretary Mattis' February 23, 2018 Memorandum. (USDOE00267770). These are representative samples of the various types of documents that were drafted for different purposes and for differing audiences that require consideration on a case-by-case basis.

18. The eighth category of documents concerns President Trump's March 2018 Memorandum. An example from this category protected solely by the deliberative process privilege would be communications and draft talking points for DoD public affairs officials regarding the President's decision. (USDOE00261306).

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<sup>11</sup> See, e.g., USDOE00272054; USDOE00272056.

19. The final category of documents withheld relates to implementation of the current DoD policy on military service by transgender individuals. This type of communication contains underlying reasoning used by DoD personnel in the development and eventual publication of guidance to US Military Entrance Processing Command. An example is an email conversation between DoD personnel regarding physicals for transgender applicants at an officer basic course. (USDOE00263935). A second example is an executive summary of a waiver issued by the Air Force for non-covered benefit of male-to-female sex reassignment surgery in the treatment of gender dysphoria. (USDOE00252751). A one-size-fits-all analysis of documents in this category is not practicable because these documents discuss topics that differ greatly in substance, from training to medical procedures. Thus, a more tailored review is necessary.

20. Based on the foregoing categories, a single analysis as to any of Plaintiffs' identified categories is not an effective way to review these privilege determinations. These documents were drafted and reviewed at varying levels, involve deliberations by different administrations and different officials both uniformed and civilian on widely-varying topics, concern any number of Plaintiffs' categories at the same time, and represent just a sample of documents from a much larger pool of deliberative materials.

21. Likewise, designating "categories" aligned with Plaintiffs' requests for production of documents, as they apparently propose at 11-12 of their motion, is not practical. As explained above and in the *Doe* declaration, neither searches nor responsiveness and privilege determinations were aligned with Plaintiffs' requests for production. Rather, DoD searched for all information even remotely related to the DoD transgender policy and made privilege determinations on a document-by-document basis only after responsiveness was determined. However, even if categorized by Plaintiffs' production requests, some documents responsive to these requests would

still be protected by the deliberative process privilege because they would include DoD deliberations on “military policies,” “waivers,” “data related to costs,” “statistical and factual information about military service by transgender individuals,” and “statistical and factual information related to military healthcare.” For example, materials from the Carter Transgender Working Group,<sup>12</sup> materials relating to the decision to delay accessions of transgender individuals into the military services,<sup>13</sup> and materials from the DoD Panel of Experts<sup>14</sup> all include pre-decisional deliberations.

22. Further, Plaintiffs claim that the deliberative process privilege cannot be applied to any documents regarding “implementation” of the Carter policy or DoD’s current policy, “rescission” of the Carter policy, or any document that post-dates the final vote of the Panel of Experts. This again sweeps too broadly because some of the documents responsive to these requests still contain pre-decisional information. For example, one document is an email and a reply sent on December 19, 2017 between DoD personnel regarding clarifying guidance to the field on transgender applicant processing at military entrance processing stations in light of the ongoing deliberations. (USDOE00083070 to USDOE00083071). This communication contains underlying reasoning used by DoD personnel in the development and eventual publication of guidance to US Military Entrance Processing Command. Another example is an email sent on December 27, 2017 from the Military Assistant to the Vice Chairman of the Joint Chiefs of Staff to a senior DoD executive. (USDOE00083056). This document seeks updates that may have been provided to leadership on the progress of the transgender working groups.

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<sup>12</sup> See, e.g., USDOE00075288; USDOE00074680; ¶12, *supra*.

<sup>13</sup> See, e.g., USDOE00092178; USDOE00083737; USDOE00129731; USDOE00073671.

<sup>14</sup> See ¶14, *supra*.

**Release of These Documents Would Have an Immediate Chilling Effect**

23. The documents over which DoD has asserted privilege pursuant to the deliberative process privilege reflect the real-time thoughts and deliberations of personnel from the Department of Defense, Department of Homeland Security, Army, Navy, Air Force, Coast Guard, Defense Health Agency, the National Guard Bureau, and the Office of the Chairman of the Joint Chiefs of Staff, both uniformed and civilian, career employees and political appointees from two administrations, across numerous ranks, positions, and areas of professional expertise as they worked to develop and refine the Department's policy over a period of four years. Moreover, the decision-making process for any major policy decision, such as a recommended policy on military service by transgender individuals, includes numerous ancillary considerations about how and when the policy would be implemented, and each of those additional decisions and accompanying processes are also deliberative in nature and protected by the deliberative process privilege.

24. The release of these documents would have an immediate chilling effect on future deliberations. The DoD decision-making apparatus relies on open and candid conversations among leadership, advisors, and policy analysts to advise and inform DoD policy makers across the military Services on various courses of action for any decision. Matters of national security frequently present multiple courses of action that require careful and delicate balancing of equities and priorities against the need to serve national defense interests, and leaders within the Department encourage open and candid discussions about the merits of such actions. Opinions identifying risks or areas of concern are critical to the integrity and viability of the military decision-making process.

25. In addition, the geographically dispersed nature of DoD activities and the high operational tempo with which many of the Department's activities are conducted mean that

deliberative and pre-decisional conversations frequently occur via email. Leaders across the Department routinely solicit feedback, thoughts, and opinions on highly sensitive topics, including those concerning national-security implications, using email so that those who need to review and weigh-in on a decision can do so in real time regardless of their physical location.

26. Here, with respect to the DoD Transgender Service Policy, the decision-making process, which spanned two administrations, was robust and highly deliberative. The Secretary Ashton Carter-era policy on military service by transgender individuals was developed by working groups, consultants, and military experts who all generated documents to communicate ideas, debate courses of action, and propose updates to DoD policy. Once the administration changed, a similar process was undertaken and a similar volume of documents was generated. The Panel of Experts was established by the Secretary and comprised the Under Secretaries of the Military Departments (or officials performing their duties), the Armed Services Vice Chiefs (including the Vice Commandant of the U.S. Coast Guard), and the Armed Services Senior Enlisted Advisors, and it was chaired by the Under Secretary of Defense for Personnel and Readiness (or an official performing those duties). The Panel of Experts received input from transgender service members, commanders of transgender service members, military medical professionals, and civilian medical professionals with experience in the care and treatment of individuals with gender dysphoria. Those appearing before this Panel were encouraged to speak candidly and openly about their experiences and opinions. This input was understood to be confidential.

27. Various policy documents, to include Secretary Mattis' 2018 memorandum that was circulated for comment and review by all of the Services and the Joint Staff, the Presidential Memorandum, and other implementation documents were also withheld under the deliberative process privilege. These documents reflect the thoughts and deliberations of the highest

government and DoD officials over a period of more than three years. The forced release of these types of delicate and candid communications would directly and immediately impair open and frank conversations at both the operational and strategic levels. If DoD personnel knew that their thoughts, impressions, and opinions on various topics, related both to DoD transgender policy and other policies, would be open to scrutiny, they may hesitate to provide their true positions on potential courses of action, not just related to military personnel decisions but as to any politically sensitive decision that DoD faces in the future, for fear that these discussions could be revealed to wider audiences. This would be the case regardless of the entry of a judicial protective order because a motivated party would still second-guess the underlying advice and analysis in depositions and other proceedings which could later influence the decision to abstain or provide less than complete candor during policy development. The absence of this essential input would degrade DoD's decision-making process and could expose the nation to greater overall risk.

28. Finally, the disclosure of deliberative, pre-decisional input, analysis, and opinions from these individuals would breach DoD's commitment to maintain the confidentiality of participants' honest deliberations regarding the sensitive topic of transgender service. This would irreparably harm DoD's ability to obtain candid and open input on any subject in the future, not just regarding service by transgender individuals.

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

EXECUTED this 13<sup>th</sup> day of September 2019, in Arlington, VA.

A handwritten signature in black ink, appearing to read "Robert Easton", written over a horizontal line.

ROBERT E. EASTON  
Director, Office of Litigation Counsel

# Exhibit 2

MINUTES: TRANSGENDER REVIEW PANEL III  
THURSDAY, OCTOBER 26, 2017 1500-1730  
P&R CONFERENCE ROOM, 3D1063  
1400 DEFENSE PENTAGON WASHINGTON, DC 20301

## Transgender Review Panelists:

() – indicates authorized substitute

Vice Chairman to the Joint Chiefs of Staff	GEN Paul J. Selva
Performing the Duties of the Undersecretary of Defense – P&R	Mr. Tony Kurta
Performing the Duties of the Under Secretary of the Army	Mr. Thomas Kelly III
Performing the Duties of the Under Secretary of the Navy	Mr. Thomas Dee
Under Secretary of the Air Force	( )
Vice Commandant of the Coast Guard	ADM Charles D. Michel ( )
Vice Chief of Staff of the Army	GEN James McConville
Vice Chief of Naval Operations	ADM William Moran
Vice Chief of Staff of the Air Force	( )
Assistant Commandant of the Marine Corps	Gen Glenn Walters
Vice Chief of Staff National Guard Bureau	LTG Daniel Hokanson
Senior Enlisted Advisor to the VJCS	CSM John Wayne Troxell <i>(did not attend)</i>
Sergeant Major of the United States Army	SGM Daniel Dailey
Master Chief Petty Officer of the Navy	MCPON Steven S. Giordano <i>(did not attend)</i>
Chief Master Sergeant of the Air Force	CMSAF Kaleth O. Wright <i>(did not attend)</i>
Sergeant Major of the Marine Corps	SgtMajMC Ronald L. Green <i>(did not attend)</i>
Master Chief Petty Officer of the Coast Guard	MCPO Steven W. Cantrell <i>(did not attend)</i>
Senior Enlisted Advisor - National Guard Bureau	CSM Christopher Kepner <i>(did not attend)</i>

## Agenda:

Topic	Briefing Name	POC
Opening Remarks	n/a	Mr. Tony Kurta
Approve previous minutes	n/a	Mr. Tony Kurta
Gender Relations Survey Methodology	Overview of Survey Methodology	( )
Policy development roadmap	n/a	( )
Military Medical Professionals	n/a	Various

**Detailed Meeting Minutes:**

MINUTES: TRANSGENDER REVIEW PANEL III  
THURSDAY, OCTOBER 26, 2017 1500-1730  
P&R CONFERENCE ROOM, 3D1063  
1400 DEFENSE PENTAGON WASHINGTON, DC 20301

**Welcome:** [REDACTED]

**Review of minutes from previous meeting:** [REDACTED]

**Gender Relations Survey Methodology:** [REDACTED] presented the methodology used in the 2016 Gender Relations Survey. [REDACTED]

**Policy development roadmap:** [REDACTED]

**Military Medical Professionals:** A panel of seven military medical professionals joined the meeting to share their insights, experiences and advice to the Panel. The group consisted of mental health specialists, surgeons, endocrinologists as well as general practitioners. Representing the Army, Navy and Air Force, the collective group had personally seen or advised on more than 250 transgender Service member medical treatment plans.

**Highlights of the panel discussion:**

- One medical panelist with significant experience in the field provided these definitions for transgender and gender dysphoria: “an individual who does not identify with their birth gender is considered transgender.” When that dissonance causes the individual distress, they become gender dysphoric. Furthermore, gender dysphoria is ultimately a social phenomenon brought about by social pressure – and in a society that is all-welcoming and non-discriminatory, gender dysphoria would not exist because individuals would feel free to be who they identify with.
- When asked if gender dysphoria can be ‘cured,’ a panelist remarked that they shied away from using the term ‘cured,’ and instead stated that it is treatable and resolvable – potentially without any medical treatment whatsoever.
- The panel expressed their concern that many young Service members may be rushing to surgery, feeling that their window for open service may be closing soon.
- When asked if current policies are adequate, a panelist remarked that they were ‘challenging.’ The current policy presents both commands and medical practitioners with challenges, the most obvious challenge being achieving a gender marker change. Under current policy, without an exception to policy, the gender marker

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change cannot occur without completion of the medical treatment plan. With an uncomplicated plan (e.g. hormones only), that is a relatively quick process. With a complicated plan (e.g. surgeries), that can be a long period – and with a requirement for a year of 24/7 real life experience prior to any surgeries, the gender marker change cannot be accomplished quickly. Additionally, without an exception to policy, the Service member cannot perform their real life experience (RLE) while on duty.

- Individuals with untreated gender dysphoria have roughly a 25 times higher risk of suicide, but that studies indicated it is largely due to an inability to transition or treat gender dysphoria. With treatment, suicidal ideation can significantly decrease.
- The panel cautioned that if DoD closes the door on transgender service, it would stigmatize and marginalize those that are still serving which could translate into increased suicide rates or harassment amongst the population.
- The panel expressed that the better support structure the transgender Service member has, the smoother the transition is for them.
- One panelist remarked that she is seeing approximately 4-5 new transgender Service members per month.

**Developing a Medical Treatment Plan:**

- Receiving a diagnosis of gender dysphoria takes approximately 6 months of counseling.
- The panel was asked what the first step in transition is after a diagnosis of gender dysphoria is given and the answer was mental or behavioral health treatment.
- The panel widely expressed the sentiment that commands across all Services were supportive of their Service member's transitions.
- When asked about how many Service members changed their plan while in the midst of it, the answer was relatively small. Since many plans are originally written broadly with words like "may consider" for certain surgeries, they are flexible enough to allow for adjustments when the Service member decides to enact that portion or not.
- One panelist with experience on more than 150 transgender Service members stated that their medical plans ran the gamut from full surgeries, partial surgeries to no surgeries. When asked about the average length of time to complete a transition, the panel stated that it depended on the amount of procedures the individual Service member desired or were recommended by their health care provider.

**Cross-sex hormones:**

- When asked what happens if an individual on cross-sex hormones was unable to take them for a period of time, the panel stated that the answer depended on the specific situation. In short, side effects of cross-sex hormone withdrawal include increased fatigue, mood swings and decreased libido – and these symptoms are

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similar to those of a cisgender individual that stopped taking hormone supplements. The longer an individual was on cross-sex hormones when they had to stop, the more intense those symptoms would be because the cross-sex hormones suppress the body's natural production of hormones and the body might not resume production after a long course of cross-sex hormones. If the individual was on a short course of cross-sex hormones prior to stopping, the body would likely be able to begin production of natural hormones again. The panelist also pointed out that cross sex hormones could conceivably be provided in multiple ways – topical creams, injections or pills – so it would be unlikely that an individual would be unable to take cross-sex hormones anywhere in the world. The same panelist remarked that there would likely be a decrease in combat ability for an individual who stopped taking their cross-sex hormones.

- When asked about why an individual is nondeployable for 12 months after beginning cross-sex hormones, the endocrinologist stated that it was due to prevailing medical guidelines (e.g. endocrine society), though his experience was that a Service member could feasibly deploy after six months of hormonal stability. The prevailing medical guidelines require laboratory work to be conducted every 90 days, making access to labs the driving factor for deployability in the first 12 months. That is the same standard applied to individuals provided hormone supplements due to low natural hormones (e.g. low testosterone).
- When asked about the long-term effects of cross-sex hormones, the endocrinologist stated that the hormone regimen is tailored to the individual and while there is an increased risk of clots, strokes, or bad lipid profiles, the risks are very small. Birth control pills generally contain more hormones than cross-sex hormones. Having treated more than 150 Service members on cross-sex hormones, none of his patients experienced any adverse side effects.
- When asked about the FAA requirement for 5 years of hormonal stability for pilots or air traffic controllers, the endocrinologist stated that it was due to the effects of hormones on red blood cells – in the cockpit, certain conditions can increase the nitrogen content in blood and cross-sex hormones could exacerbate this phenomenon.
- In the endocrinologist's experience, roughly three times more cisgender men want testosterone supplements than transgender patients.
- One panelist has seen more than 20 transgender Service members and has approved the deployment of several of them to non-austere environments like Poland and Kosovo. Most of the individuals work their transitions around operational requirements.

**Surgical Procedures:**

- A plastic surgeon brought up the difference between medically necessary procedures and those that are considered to be cosmetic. Based on guidelines similar to civilian insurance, breast reduction surgery for a female-to-male (FtM)



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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

# Exhibit 3



U.S. Department of Justice  
Civil Division, Federal Program Branch

Robert M. Norway  
Trial Attorney

Tel: (202) 353-0889  
Email: robert.m.norway@usdoj.gov

October 10, 2018

By FedEx and Email

Vanessa Barsanti  
Kirkland & Ellis LLP  
300 North LaSalle  
Chicago, IL 60654

*Counsel for Plaintiffs*

Re: *Karnoski v. Trump* – Revised Production 14

Dear Counsel,

As requested, please find enclosed an encrypted flash drive containing a revised data file and slip-sheet images for defendants' production number 14. The production has been segmented into four parts to facilitate handling. The production load files contain the following metadata fields: Beginning Bates Number; Ending Bates Number; Beginning Bates Range; Ending Bates Range; Production ParentID; Service ID; Page Count; File Extension; File Name; File Size; MD5 Hash; From; To; CC; BCC; Subject; Date TIME Created; Date TIME Modified; Date TIME Sent; Date TIME Received; TextPath; and NativePath.

The documents are Bates numbered USDOE00180719 – USDOE00237764, and each document is also Bates numbered by component. The USDOE bates numbers will be used in document productions across the four related cases to facilitate the identification of documents in depositions and other discovery matters. Please note that these documents are provided subject to the terms of the stipulated protective order and cross-use agreement, and FRE 502 order. Dkt. Nos. 182 & 183. The password and directions for accessing the flash drive will be provided by email.

Sincerely yours,

Robert M. Norway

Enclosures

# Exhibit 4

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**From:** Bushman, William CIV SD  
**Sent:** Wednesday, February 14, 2018 2:57 PM  
**To:** 'Paul McHugh'  
**Subject:** RE: attachments

Thank you, sir. Really appreciate your assistance.

- Will

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**From:** Paul McHugh [<mailto:pmchugh1@jhmi.edu>]  
**Sent:** Tuesday, February 13, 2018 12:34 PM  
**To:** Bushman, William CIV SD <[William.Bushman@sd.mil](mailto:William.Bushman@sd.mil)>  
**Subject:** RE: attachments

Mr. Bushman I've attached a copy of the study you wanted. Also I realize that I sited Tom Wise in Fairfield. I of course meant Fairfax Virginia. Sorry Paul McHugh

---

**From:** Bushman, William CIV SD [<mailto:William.Bushman@sd.mil>]  
**Sent:** Monday, February 12, 2018 6:00 PM  
**To:** Paul McHugh <[pmchugh1@jhmi.edu](mailto:pmchugh1@jhmi.edu)>  
**Subject:** RE: attachments

Thank you, sir. This is most helpful.

One additional question: do you have access to a copy of the following study?

- 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.

Thank you again for your help.

Best,  
Will

**William G. Bushman**  
Office of the Secretary of Defense  
Office: 703.571.8935  
Cell: 703.216.5782  
NIPR: [william.bushman@sd.mil](mailto:william.bushman@sd.mil)  
SIPR: [william.bushman@sd.smil.mil](mailto:william.bushman@sd.smil.mil)  
JWICS: [william.bushman@sd.ic.gov](mailto:william.bushman@sd.ic.gov)

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**From:** Paul McHugh [<mailto:pmchugh1@jhmi.edu>]  
**Sent:** Monday, February 12, 2018 2:12 PM  
**To:** Bushman, William CIV SD <[William.Bushman@sd.mil](mailto:William.Bushman@sd.mil)>  
**Subject:** RE: attachments

Mr. Bushman, You might contact Dr. Chester Schmidt here at Hokins and Dr. Thomas Wise at Fairfield. PM

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**From:** Bushman, William CIV SD [<mailto:William.Bushman@sd.mil>]  
**Sent:** Sunday, February 11, 2018 3:30 PM  
**To:** Paul McHugh <[pmchugh1@jhmi.edu](mailto:pmchugh1@jhmi.edu)>  
**Subject:** RE: attachments

Dr. McHugh,

Thank you again for speaking to us and providing additional information. During our call, I believe you mentioned there were other individuals who could also serve as resources for our policy review. Do you know of any other persons we should consider reaching out to?

Thanks,  
Will Bushman

**William G. Bushman**  
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Office: 703.571.8935  
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NIPR: [william.bushman@sd.mil](mailto:william.bushman@sd.mil)  
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JWICS: [william.bushman@sd.ic.gov](mailto:william.bushman@sd.ic.gov)

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**From:** Paul McHugh [<mailto:pmchugh1@jhmi.edu>]  
**Sent:** Monday, February 5, 2018 2:51 PM  
**To:** Bushman, William CIV SD <[William.Bushman@sd.mil](mailto:William.Bushman@sd.mil)>  
**Subject:** attachments

Mr. Bushman, I mentioned these several articles in our conversation The Hayes Directory on evidence for sex reassignment surgery and other medical treatments , The long term follow-up from Sweden for transgender surgery, My article in Nature Medicine in 1995, and our recent article in the New Atlantis. I've attached them all here . Do tell me if they get through. Paul McHugh

# Exhibit 5

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

RYAN KARNOSKI, et al.,

*Plaintiffs,*

STATE OF WASHINGTON,

*Plaintiff-Intervenor,*

v.

DONALD J. TRUMP, in his official capacity as  
President of the United States, et al.,

*Defendants.*

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

**PLAINTIFFS' RULE 26(a)(2) EXPERT REPORT OF  
MARGARET C. WILMOTH**

My name is Margaret C. Wilmoth. I have been retained by counsel for Plaintiffs as an expert in connection with the above-captioned litigation. The purpose of my engagement is for me to provide my expert opinion on whether transgender service members' health care needs will impose a burden on the military. I prepared this report to set forth the opinions I may express at trial and the basis for my opinions. The opinions expressed in this report are based on the information that I have reviewed to date. I reserve the right to revise and supplement it if any new information becomes available in the future.

A copy of my curriculum vitae, which includes my publications, is attached as Exhibit A. The materials I considered in forming my opinions are listed in Exhibit B or referenced in this report. I also relied on my professional experience and education, including my research and experience in military health care issues and my understanding of U.S. military personnel policies in reaching the

conclusions in this report. During the past four years, I have not testified as an expert at trial or by deposition. I am not being compensated for my work in connection with this case.

## **I. SUMMARY OF QUALIFICATIONS**

I am a nurse, academic, and retired Major General in the United States Army Reserve (U.S.A.R.). From July 2014 to May 2017, I served as Deputy Surgeon General for Mobilization, Readiness and Army Reserve Affairs in the Office of the Surgeon General of the United States Army. On July 28, 2015, Secretary of Defense Ashton Carter directed Brad Carson, Acting Undersecretary of Defense for Personnel and Readiness, to convene a working group (the “Working Group”) to study the policy and readiness implications of allowing transgender persons to serve openly in the military. I participated in the Working Group as the representative of the Surgeon General of the United States Army.

I received a Bachelor’s degree in Nursing from the University of Maryland in 1975, followed by a Master’s Degree in Nursing from the University of Maryland in 1979. I received a Ph.D. in Nursing from the University of Pennsylvania in 1993. I received a Master’s Degree in Strategic Studies from the United States Army War College in 2001. I am a Registered Nurse.

My family’s history of military service dates back to the Revolutionary War. As a small child, I grew up hearing the stories of an aunt who was a nurse and a neighbor who had served as an Army nurse during World War II. From the time I was 6 or 7 years old, I knew I wanted to be an Army nurse. When I graduated with my nursing degrees at the end of the Vietnam War, the Army was drawing down, so I went into civilian practice. I spent the first seven years of my nursing career as a clinician, a bedside staff nurse.

While I was teaching at the University of Delaware, my father, who was a World War II pilot and retired from the Air Force Reserve, encouraged me to pursue my dream of serving as an Army

nurse by joining the U.S.A.R. I joined the U.S.A.R. in 1981 and served in various capacities during over 35 years in service, achieving the ranks of Captain, Major, Lieutenant Colonel, Colonel, Brigadier General, and Major General, before my retirement from the military on May 1, 2017. When I was promoted to Brigadier General in 2005, I became the first nurse and first woman to command a medical brigade as a general officer. When I was promoted to Major General, I became only the third nurse from the Army Reserve ever to achieve that rank.

From July of 2008 through October 2011, I served as Assistant for Mobilization and Reserve Affairs in the Office of the Secretary of Defense for Health Affairs. From October 2011 through July of 2014, I served in the Control Group. In July of 2014, I was appointed Deputy Surgeon General for Mobilization and Reserve Affairs. When I received this appointment, I became the first nurse in the more than 106-year history of the Army Reserve and the first woman to serve in this position. I held this position until my retirement from the military on May 1, 2017.

In August of 2014, I was re-appointed by the Secretary of the Army to the Army Reserve Forces Policy Committee, where I most recently served as Deputy Chair. This congressionally-mandated committee's role includes advising the Secretary of the Army on major policy matters directly affecting the reserve components and the mobilization preparedness of the Army. I held this position until my retirement from the military on May 1, 2017.

In my more than three-and-a-half decades of service, I received many decorations, including the Distinguished Service Medal, Defense Superior Service Medal, the Legion of Merit Medal, the Meritorious Service Medal, the Army Commendation Medal, and the Army Achievement Medal. I also hold the Expert Field Medical Badge and was awarded the 9A proficiency designation in medical surgical nursing by the Surgeon General, U.S. Army. I am a member of the Order of Military Medical Merit.

My civilian professional experience includes academic appointments at Central Missouri State University, University of Kansas, University of North Carolina at Charlotte, and Georgia State University. At Georgia State, I served as Dean of and Professor at the Byrdine F. Lewis School of Nursing and Health Professions at Georgia State University. I was selected as a Health Policy Fellow by the Robert Wood Johnson Foundation. I am a Fellow of the American Academy of Nursing, where I have served as Co-Chair of the Military/Veterans Expert Panel. In August of 2017, I joined the University of North Carolina School of Nursing as the Executive Dean and Associate Dean for Academic Affairs.

Throughout my academic and research careers, my practice and research focus has been psychosocial oncology. My research led to the development of a subspecialty in psychosexual oncology, which focuses on how surgery, chemotherapy, radiation, and immunotherapy impact body image, sexuality, and fertility. I have had more than sixty psychosexual oncology academic papers published on topics such as comparing the effects of lumpectomy versus mastectomy on sexual behaviors; and strategies to help nurses become comfortable with psychosexual assessments of patients.

My roles as Assistant for Mobilization and Reserve Affairs and Deputy Surgeon General for Mobilization and Reserve Affairs required me to become knowledgeable about the capabilities and constraints of the Military Health System and the medical needs of individual service members. I also developed specific expertise about the medical needs of transgender individuals and the services available in the military through my participation in the Working Group, which also drew on my academic study and research on issues related to body image and sexuality.

## **II. SUMMARY OF OPINIONS**

It is my assessment, based on my participation in the Working Group, and my experience, education, and research in military health care issues, that for the vast majority of transgender service

member medical care needs, the Military Health System is already providing the same or substantially similar services to other service members. There would be little, if any, additional burden on the Military Health System from the provision of the required medical services to transgender service members, nor would it have any adverse impact on military readiness.

### **III. BACKGROUND**

On July 28, 2015, Secretary of Defense Ashton Carter directed Brad Carson, Acting Undersecretary of Defense for Personnel and Readiness, to convene a “Working Group” to study the policy and readiness implications of allowing transgender persons to serve openly in the Armed Forces. The Working Group was asked to determine whether there were any objective, evidence-based impediments to permitting transgender people to serve openly and, if not, to develop an implementation plan for changing the policy to permit open service with the goal of maximizing military readiness.

When Secretary Carter directed the formation of the Working Group, I was serving as Deputy Surgeon General for Mobilization, Readiness, and Army Reserve Affairs. I was asked by the Surgeon General, United States Army to serve as that office’s representative to the Working Group. Members of the Working Group were appointed based on the positions they held, not any policy predisposition. As one of approximately twenty-five members of the Working Group, I was able to provide the benefit of my medical expertise, my academic research, and my knowledge of the workings of the Military Health System and the Defense Health Agency. I participated in the Working Group’s weekly meetings from its initial meeting in the summer of 2015 through the final meeting in late spring of 2016.

The Working Group addressed many topics, one of which was determining how the military could meet medical needs of transgender service members. With respect to that topic, our process involved three steps: (1) Understanding the medical needs of transgender service members;

(2) identifying whether and how those needs could be met within the Military Health System; and (3) developing policies and protocols to ensure transgender service members could serve openly and have their medical needs met. The Working Group focused on ensuring that transgender service members' medical needs would be treated in the same manner and under the same framework as the medical needs of other service members, unless that proved unworkable. The Working Group was free to conclude those needs could not be met under the existing framework and, indeed, had a duty to articulate any such concerns.

The first step for the members of the Working Group was to establish a baseline level of knowledge among all Working Group members about the medical needs of transgender service members. We educated ourselves by meeting with experts from the civilian sector so we could better understand what being transgender means. We wanted to understand the full range of medical and behavioral treatment that might be required for a transgender service member. We sought to understand how an individual might go through a transition process and what the medical components of that process might be. We spoke to internal medicine experts, psychologists, endocrinologists, and surgeons who educated the Working Group—based on a variety of medical and behavioral health perspectives—regarding all aspects of transgender care including mental health treatment, pharmaceutical treatment, and surgical treatment. The Working Group also conducted comprehensive reviews of the applicable medical and scientific literature. Several transgender service members currently serving in the military spoke to the Working Group and made themselves available for any questions the Working Group had about their experiences and needs.

Throughout this educational process, the Working Group developed a deep understanding of the medical needs of transgender service members. After we understood the universe of potential medical needs of transgender service members, we focused on how the Military Health System (MHS) could—within its current structure—meet those needs, including with respect to hormone

therapy, pharmaceutical care, gynecological care, behavioral health care, and surgical therapy. The Working Group used its analysis and the medical literature to calculate average cost figures for the “total package of care” for a transgender man and a transgender woman serving in the military.

Next, we turned our focus to developing a policy that would address the psychological and physical needs of transgender individuals and treat those individuals fairly while keeping medical readiness and deployability at the forefront. Developing the protocol was an iterative process involving multiple rounds of drafting, gathering input from the services, and redrafting.

The Working Group sought to identify and address all potential issues relating to service by openly transgender persons. We concluded that there were no barriers that, from any perspective, should prevent transgender service members from serving openly in the military. Open service by transgender service members would not impose any significant burdens on readiness, deployability, or unit cohesion. On deployability, for instance, the Working Group discussed that while some transgender service members might not be deployable for limited periods of time due to their treatment, this is not unusual, as it is common for service members to be non-deployable for periods of time due to medical conditions such as orthopedic injuries, obstructive sleep apnea, appendicitis, gall bladder disease, infectious disease, and myriad other conditions.

For those seeking to join the military, the Working Group recommended that the medical standards for accession into the Military Services by transgender persons be based upon the same standards applied to persons with other medical conditions, which seek to ensure that those entering service are free of medical conditions or physical defects that may require excessive time lost from duty. Based upon that standard, the Working Group recommended that the new accessions policy permit enlistment so long as an applicant with a history of gender dysphoria or of treatment for gender

dysphoria has completed all medical treatment associated with the applicant's medical condition and has been stable in the preferred gender for a sufficient period of time.

The Working Group's process for developing the protocol and recommendations was deliberative and thoughtful, involved significant amounts of research and education, and in the end resulted in a policy that all services supported. We were very proud to have developed a policy that treats transgender service members as the equal of their fellow service members, and as soldiers, sailors, Marines, cuttermen, and airmen first.

#### **IV. OPINIONS**

The MHS already provides the medical care needs that transgender service members might require. It is my assessment, based on my participation in the Working Group, and my experience, education, and research in military health care issues, that for the vast majority of transgender service member medical care needs, the MHS is already providing the same or substantially similar services to other service members, and that there would be little, if any, additional burden on the MHS from the provision of the required medical services to transgender service members.

**Hormone Therapy.** The MHS already provides hormonal therapy to service members. Women—in particular, many menopausal women—frequently receive hormonal therapy, and men commonly require testosterone replacement. The MHS also provides hormone replacement therapy to treat service members with a wide variety of medical needs, including adrenal or pituitary deficiencies. Providing similar care for transgender individuals from a pharmaceutical perspective would not be a complicating issue or an additional burden, because the medications transgender service members take are identical to those already provided to non-transgender personnel. There is no administrative or other reason for the MHS to single out transgender people taking the same medication for different treatment.

Nor would providing pharmaceutical care to transgender personnel create any deployment-related obstacles. The MHS already has an effective system for distributing prescribed medications to deployed service members across the globe, including in combat settings. Service members with chronic conditions requiring routine medications regularly take with them enough medication to last for at least the first 90 days of their deployment. Examples of such medications would include birth control, hormone replacement therapy, and medications to address low testosterone, hypertension, and osteoporosis, among other conditions. Each Combatant Command sets rules in the form of Personnel Policy Guidance that specifies any special restrictions on deployability of members to that Command, including medical restrictions. For example, a theatre that has only intermittent access to a medical supply train might require service members to bring extra medical supplies or restrict certain service members from serving in particular locations. Such issues are already readily addressed in the field through the Personnel Policy Guidance, and no unique or different issues would be raised by the pharmaceutical needs of transgender service members. Again, the MHS is already distributing the same hormone replacement therapies transgender service members require throughout the world, including to combat settings. Transgender service members who required routine medication would not create any additional burden on deployability.

**Gynecological Care.** The MHS already routinely provides gynecological care to its service members. With transgender service members being permitted to serve openly, the concerns about confidentiality that might previously have hindered transgender service members from seeking gynecological care through the MHS would no longer be an issue. Transgender service members would now be able to receive all routine medical care including gynecological services through the MHS, allowing for more complete and coordinated care for the service members. No additional burden on the MHS would be created by the provision of gynecological care to transgender service members.

**Behavioral Health.** The MHS already routinely provides behavioral health care to its service members, including treatment for depression, anxiety, and post-traumatic stress disorder. With transgender service members being permitted to serve openly, the concerns about confidentiality, retaliation, and stigmatization that might previously have inhibited transgender service members from seeking mental health care through the MHS would no longer be an issue. Because transgender service members would now be able to seek such care, if needed, openly through the MHS, service members would benefit from more complete and coordinated care. Indeed, the military is working hard to de-stigmatize behavioral health treatment. It would be inconsistent with that goal to single out a specific group to target and discourage treatment. No additional burden on the MHS would be created by the provision of behavioral health care to transgender service members.

With respect to deployment or readiness related obstacles associated with addressing the behavioral health needs of transgender service members, the U.S. military's counterparts in Israel, the United Kingdom, and Australia—where open service by transgender individuals is permitted—have seen no reduced ability to serve from transgender service members due to behavioral health or other gender identity related issues. The U.S. military has a rigorous screening process for all individuals applying to join the military that includes examination of mental health. The Military Entrance Processing Stations (MEPS) (enlistment processing offices) evaluate psychological stability as a component of fitness to serve. Additionally, once individuals are in active or reserve service, mental health is evaluated on an annual basis as part of the Periodic Health Assessment (PHA). There is no reason to believe—and during the Working Group's comprehensive analysis I saw no evidence to suggest—that these pre-existing military policies, when applied to transgender service members serving openly, would not adequately protect the services from any behavioral health issues interfering with deployment.

**Surgical Therapy.** The MHS employs general surgeons, urologists who perform urological surgeries, and obstetrician/gynecologists who perform gynecological surgeries. Those skill sets are present in a substantial capacity within the MHS, and the MHS is able to address most routine surgical needs at or near the location of its service members. For example, service members and eligible family members demonstrating medical need already receive surgical treatment through the MHS, including hysterectomies, oophorectomies, mastectomies, orchiectomies, and chest surgeries like breast augmentation. While all available data shows surgeries for transgender service members would be relatively rare, those procedures are already routinely provided to non-transgender service members and their families. For surgeries requiring particular expertise, the MHS maintains major medical centers that are equipped to provide a broader array of services. For surgeries requiring expertise outside of the MHS's capacity, service members are typically referred out to civilian providers. The non-routine surgical needs of a transgender service member could be addressed either through training or contracting with surgeons with the appropriate expertise or through the normal process for referring out to civilian providers. The surgical needs of transgender service members could be addressed through either of these methods without creating additional burden on the MHS.

In fact, it is my opinion—and the Working Group concluded after careful analysis—that the MHS would benefit from providing surgical procedures to transgender personnel. Providing these surgeries would improve the military's medical readiness by providing the MHS surgeons an opportunity to hone skills with transferability to wartime. The MHS struggles with ensuring that its medical providers acquire and retain the skills they need to serve in a wartime scenario. Having surgeons engage in training in the surgical techniques needed to perform sex-reassignment surgery would provide analogous surgical skills required to address, for instance, blast injuries in wartime scenarios that cause severe genital trauma, like those suffered by personnel serving in Iraq. Increased

opportunities to improve gynecology/genitourinary (GYN/GU) and urology surgical expertise within the MHS would improve military readiness, to the benefit of the MHS and all service members.

\* \* \*

Executed this 10th day of September, 2018

  
\_\_\_\_\_  
Margaret C. Wilmoth

# Exhibit A

**Curriculum Vitae****MARGARET CHAMBERLAIN WILMOTH, PhD, MSS, RN, FAAN**

**Home Address:** 211 Edgewater Circle  
Chapel Hill, NC 27516

**Office Address:** School of Nursing  
University of North Carolina  
Chapel Hill, NC  
Email: [wilmothp@email.unc.edu](mailto:wilmothp@email.unc.edu)

**Education:**

JUN 1999-JUL 2001	Master of Strategic Studies United States Army War College Carlisle, PA
SEP 1989-DEC 1993	Doctor of Philosophy School of Nursing University of Pennsylvania Philadelphia, PA Dissertation Title: Development and Psychometric Testing of the Sexual Behaviors Questionnaire
JAN 1977-MAY 1979	Master of Science Degree University of Maryland, Baltimore Baltimore, MD Capstone Title: Body Image and Sexuality of Head and Neck Cancer Patients
SEP 1971-MAY 1975	Bachelor of Science in Nursing University of Maryland, Baltimore Baltimore, MD

**LICENSURE AND CERTIFICATION**

<u>Licensure</u>	<u>Number</u>	<u>Issue Date</u>	<u>Expiration</u>
North Carolina	148258	13 SEP 1996	30APR19
Georgia	RN219216	NOV 2011	31JAN20

**ACADEMIC APPOINTMENTS**

AUG 2017	School of Nursing University of North Carolina at Chapel Hill	Executive Dean/Associate Dean of Academic Affairs
JAN 2015 JUN2017	School of Nursing Byrdine F. Lewis School of Nursing & Health Professions, Georgia State University (Military leave AY2016)	Professor
JAN 2012- DEC2014	Byrdine F. Lewis School of Nursing & Health Professions Georgia State University	Dean & Professor
JUL 2004- DEC 2011	University of North Carolina at Charlotte College of Health & Human Services Department of Adult Health Nursing (Educational Leave AUG 09-DEC10) (Military Leave Spring 2011)	Professor
SEP 1997- JUN 2004	University of North Carolina at Charlotte College of Nursing & Health Professions Charlotte, NC	Associate Professor Tenured in 2001
AUG 1996- MAY 1997	University of North Carolina at Charlotte College of Nursing & Health Professions Charlotte, NC	Visiting Assistant Professor
AUG 1995- JUN 1996	University of Kansas School of Nursing Kansas City, KS	Research Assistant Professor
AUG 1993 JUN 1995	Central Missouri State University Department of Nursing Warrensburg, MO	Associate Professor
AUG 1984- JUN 1992	College of Nursing University of Delaware Newark, DE	Assistant Professor
AUG 1979- SEP 1984	College of Nursing University of Delaware Newark, DE	Instructor

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**Other Employment/Appointments**

2016-	Hondros College of Nursing Westerville, OH	Member of the Board (paid)
2015-	National Advisory Council on “Have You Ever Served?” Campaign, American Academy Of Nursing	Member of the Board (volunteer)
2012-2016	National Advisory Council Nurse Education and Practice HRSA	Member (SGE)
2010-2011	Nell Hodgson Woodruff School of Nursing Emory University, Atlanta, GA	Visiting Professor
SEP 1976- JUN 1979	University of Maryland Hospital Baltimore, MD	Clinical Nurse
JUN 1975- AUG 1976	Medical College of Virginia Richmond, VA	Nurse Intern

**ACADEMIC ADMINISTRATIVE POSITIONS AND ACCOMPLISHMENTS****Georgia State University January 2012-December 2014**

Inaugural dean of a newly reformed/restructured interprofessional school of nursing and health professions comprised of nursing, nutrition, physical therapy and respiratory therapy programs. The college had approximately 80 faculty and 35 staff and 3,000+ students across all programs. Achieved accreditation of all programs including reaccreditation of a program that was on probation. Achieved and maintained certification and licensure rates greater than or equal to 90% and which are higher than the national average in all disciplines. Initiated a Bachelor in Interdisciplinary Studies in Clinical Health Informatics to allow for a non-professional major within the college. Initiated a Doctor in Nursing Practice program and received permission from the System Board of Regents to begin a Master’s in Occupational Therapy program of study. Increased undergraduate 6-year graduation rates from 41.6 to 44.6% in 3 years. Hired new college leadership that included an Associate Dean for Research who implemented an intensive plan to work with chairs and tenure track faculty to increase and expand the research portfolio. Publication rates of faculty doubled in two years. Published the first annual report for dissemination to internal and external stakeholders. This was a first for both this college and for its preceding structural organization. Restructured the college’s advisory board to one of an active board engaged in development. Annual fundraising exceeded requirements.

**MILITARY ASSIGNMENTS****(Last 10 years)**

- 7/2014-5/1/2017 Deputy Surgeon General for Mobilization and Medical Readiness  
and Army Reserve Affairs  
Office of the Surgeon General, US Army  
Falls Church, VA  
Promoted to Major General December 11, 2014  
Mobilized to Active Duty June 2015-June 2016  
Responsibilities: Advise the Army Surgeon General on policy matters affecting mobilization readiness of Army Reserve forces; advise the Chief, US Army Reserve, on strategic medical readiness issues affecting the Army Reserve; leads examination of recruiting/retention practices of Critical Wartime Specialties; engages with Senior Leaders across the Army on matters affecting Army Reserve medical issues. While on active duty served as Army Medicine's representative to the Secretary of Defense's Working Group Examining Transgender Service, as Army Medicine's General Officer lead on Gender Integration Review and briefs to the Chief of Staff, US Army; led Transition Team for 43<sup>rd</sup> Surgeon General; led the Army Surgeon General's Talent Management Strategy Development OPT. Served as Senior Army member in the Summer 2015 Medical Strategic Leaders course; appointed by the Secretary of the Army to serve on the Army Reserve Forces Policy Group; served as Deputy Chair 2016-2017.
- 10/2011-6/2014 General Officer Management Organization (Reinforcement Group)  
Human Resource Command  
Fort Knox, KY  
Assignment restricted activities
- 7/2008-10/2011 Assistant for Mobilization & Reserve Affairs  
Office of the Assistant Secretary of Defense/Health Affairs  
The Pentagon  
Responsibilities: Ensured Reserve Components of all Services were represented in Department of Defense health-centric policies related to mobilization, deployment/redeployment; chaired Working Group on medical readiness; communicated regularly with the Reserve Health Readiness Program to streamline policies regarding Reserve Component health readiness assessments; led Tiger Team that examined and proposed revisions in the organization of Human Research Protection Programs across the Services; championed research that examined psychiatric evacuations out of the theater of operations. This research changed CENTCOM deployment policy. Was senior U.S. representative to 2010 ICMM Pan American Congress on Military Medicine.

5/2005-6/2008 Commanding General, 332<sup>nd</sup> Medical Brigade  
Nashville, TN (8 state area; 57 units w/~6,000 soldiers)  
Promoted to Brigadier General, 1AUG2005  
Responsibilities: Responsible for all aspects of command across a broad geographic area, to include personnel readiness, training, and equipping the force. Responsible and accountable for all unit and individual Soldier mobilization and deployments to theater of war. Responsible for family readiness for deployment. Accountable for over \$10M worth of military and medical equipment. Led a major organizational change that doubled the geographic size of the command, doubled the number of units and soldiers being supported without a concurrent growth in supporting staff and structure. Created the command's first strategic communication plan. Appointed by the Secretary of the Army to serve on the Army Reserve Forces Policy Committee.

1/2005-4/2005 Commander, 5<sup>th</sup> Medical Group  
Birmingham, AL

12/2003-1/2005 Interim Commander, 332<sup>nd</sup> Medical Brigade  
Nashville, TN

7/2002-11/2003 Deputy Commander, 81<sup>st</sup> Regional Support Group  
Fort Jackson, SC

12/99-6/02 Commander, 312<sup>th</sup> Field Hospital, Greensboro, NC  
Promoted to Colonel, 29FEB2000

2/2000-8/2005 United States Army Reserve, Army Nurse Corps; Colonel

9/95-2/2000 United States Army Reserve, Army Nurse Corps, Lieutenant Colonel

9/88-9/95 United States Army Reserve, Army Nurse Corps, Major

9/81-9/88 United States Army Reserve, Army Nurse Corps, Captai

Military Education (Certificate Programs)

Medical Strategic Leaders Program	2015
General Officers Leadership Course	2005
Advanced Nursing Leadership Course	1996
Clinical Head Nurse Course	1994

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Command and General Staff College, Graduate	1993
Army Medical Department, Officer Advanced Course	1986
Medical Management of Chemical Casualty Course	1983
Army Medical Department, Officer Basic Course	1982

**HONORS AND AWARDS**

Organization	Year	Award
Robert Wood Johnson Foundation	2009-10	Health Policy Fellow, Washington, DC
American Academy of Nursing	2008	Inducted as Fellow
Phi Beta Delta Honor Society for International Scholars	2007	Inducted in to UNC Charlotte Mu Chapter
Phi Alpha Honor Society for Social Work	2007	Inducted into UNC Charlotte Nu Theta Chapter
Society of Gynecology Nurse Oncologists	2007	Paula Major Lectureship Award, SGNO
Oncology Nursing Society	2006	Mara Mogenson Flaherty Memorial Lectureship, Oncology Nursing Society
Surgeon General of the US Army	2003	Awarded 9A Proficiency Designator for Excellence in Medical Surgical Nursing
Association of Military Surgeons Of the United States	2002	Federal Nursing Service Essay Award for essay "Enlisted Women with Breast Cancer: Balancing Demands & Expectations"
Army Medical Department Regiment	2001	Inducted into membership of the Order of Military Medical Merit
Great 100 of North Carolina	2000	Great 100 Nurses of Excellence in NC
Listed in <i>Who's Who of American Women</i>	1997-	

College of Nursing University of Delaware	1992	Excellence in Teaching Award
Listed in <i>Who's Who in American Nursing</i>	1992-	
American Cancer Society	1990-93	Doctoral Scholarship Recipient
Maryland Nurses Association District 7	1989	Advanced Study Scholarship
Sigma Theta Tau International Honor Society for Nursing	1979	Inducted into University of Maryland Pi Chapter

**Courses Taught**

(last 10 years only; grouped by year; some courses taught both Fall &amp; Spring Semesters)

Georgia State University

Spring 2017      NURS 2010 Human Growth & Development (UG, 3 credits)  
(2 sections/45 students each/online)

Fall 2016      NURS 3300 Health Policy (UG RN/BSN, 3 credits) (online)  
NURS 2010 Human Growth & Development (UG, 3 credits)  
(online)

UNC Charlotte

Fall 2011      18 credits/year teaching workload  
NURS 6115 Health Policy (GR, 3 credits)  
NURN 4450 Nursing Leadership & Management (UG, 3 credits)

2009-2011      On Educational Leave-no courses taught

2008-2009      18 credits/year teaching workload  
NURS 6160 Nursing Research (G, online, 3 credits)  
NUCI 6601/6602 Synthesis (G, multiple sections)

2007-2008      18 credits/year teaching workload  
NURS 4450 Nursing Leadership & Management (UG, 3 credits)  
NURN 4900 Nursing Research (UG, 2 credits)  
NUCI 6601/6402 Synthesis (G, 3 credits total)

2006-2007      18 credits/year teaching workload  
Senior Year UG Curriculum Coordinator  
NURS 6115 Health Policy (GR, 3 credits)

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NURS 6160 Nursing Research (GR, online, 3 credits)

2005-2006 NURS 6115 Health Policy (GR, 3 credits)  
NURS 6160 Nursing Research (GR, 3 credits)  
NURN 4251 Leadership & Management (UG, 2 credits)

### **US Army War College Mentor**

Stephanie Ball, Resident Student, US AWC; Military Trauma System, 2016-2017

Mark Gray, US AWC Fellow, Office of the National Coordinator, DHHS, 2015-2016

### **Dissertation Committees/Advising**

Year	Student	Institution	Role
2016-	Lisa Doumont	Shenandoah University	Advisor
2010-2012	Stephanie Ball	Sage University	Advisor
1999	Deborah W. Bruner,	University of Pennsylvania,	Advisor
2006-2012	Darcy Wallus,	UNC Charlotte	Advisor
2007-2012	Tanya Vishnevsky,	UNC Charlotte	Advisor
2007-2013	Melanie Rouse,	UNC Charlotte	Chair, Dissertation Committee, Title: Exploring the Effects of Being a Peer Educator on African American Breast Cancer Survivors

### **Doctor of Nursing Practice Capstone Project Advisement**

Year	Student	Institution	Role
2014-2015	Susan Thurman	Georgia State Univ.	Chair, <u>Capstone Committee. Title: HCAPS Data Quality Improvement Project</u>
2014-2015	Kelly Bush	Georgia State Univ.	Chair, <u>Capstone Committee. Title: Quality Improvement Project with Providers of Patients with Renal Disease.</u>

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**Thesis/Capstone Project Advisement**

# = published manuscript based on this work

UNC Charlotte

<u>Year</u>	<u>Student</u>	<u>Title</u>
<u>2008-2009</u> Chair	Traci Nixon	Experiences of Ovarian Cancer Patients Related To Sexuality#
<u>2007-2008</u> Capstone Project Chair	Julie Holley	In Their Own Words: Symptom Cluster Management by Breast and Ovarian Cancer Survivors
Capstone Project Chair	Vanessa LaLoggia	Experiences of Ovarian Cancer Patients Related To Sexuality#
Capstone Project Chair	Tara Greer	Peripheral Neuropathy in Gynecological Cancer Patients Receiving Chemotherapy#
<u>2006-2007</u> Capstone Project Chair	Susan Laboy	Symptom Cluster Identification in Ovarian Cancer Survivors: Pilot Work#
<u>2005-2006</u> Capstone Project Chair	Holly Wahab	Pilot Work Validating the Symptom Cluster of Fatigue, Weight Gain, Psychologic Distress and Altered Sexuality in Breast Cancer Patients#
<u>2004-05</u> Capstone Project Chair	Timothy Fain	Relationship between Prostate Cancer and Osteoporosis in Nursing Home Residents
<u>2003</u> UNC Charlotte Capstone Project Chair	Steven Smith	Symptom Cluster Development#
UNC Charlotte Capstone Project Chair	Kristina Santee	Self-Efficacy in African American Women
UNC Charlotte Capstone Project Committee Member	Darla Carballo	The Short Term Effect of Breathing Exercises on Elevated Blood Pressure

<u>2002</u> UNC Charlotte Capstone Project Chair	Lisa Hinson	Effects of Adjuvant Therapy on Sexuality in Women with Breast Cancer
<u>2001</u> UNC Charlotte Capstone Project Committee Member	Paige C. Roper	From the Classroom to the Clinical Setting: A Unique Look at Nurse Anesthesia Students' Evolving Perception of the Specialty
UNC Charlotte UG Honors Thesis Committee Member	Julie Seaman	The Effect of War on the Psychosocial Development of Children
UNC Charlotte Thesis Committee Chair	Aimee Finnie	Women's Experiences Related to Sexuality After Breast Cancer#
<u>1998</u> UNC Charlotte Thesis Committee Member	Linda Johnson	Reliability and Validity of the Sternal Wound Infection Prediction Scale
<u>1997</u> UNC Charlotte Thesis Committee Member	DeLane Rosenau Valencia Jeffcoat	The Concerns of Children Aged 8-11 Years as They Relate to Family Life
<u>1992</u> Andrews University, MI Master's Thesis Consultant	Maurine Shambarger	Expression of Sexuality After the Mastectomy Experience: A Correlation Study of Women and Their Sexual Partners
<u>1991</u> Fox Chase Cancer Center Philadelphia, PA Consultant	Noreen Johnston	Sexual Adjustment Post Radiation Treatment for Prostate Cancer

**GRANTS, CONTRACTS AND FELLOWSHIPS**

Title: Robert Wood Johnson Health Policy Fellowship  
 Source: Robert Wood Johnson Foundation  
 Role: Principal Investigator  
 Date: September 2009-August 2011  
 Funding: \$165,000

Title: "The Experiences of Ovarian Cancer Patients Related to Sexuality"  
 Source: American Nurses Foundation, \$3,500  
 Daisy Foundation, \$806  
 Role: Principal Investigator  
 Date: September 2007-August 2008 (no-cost extension granted 2008-2009)  
 Funding: \$4,306

Title: "Validation of the Symptom Cluster of Fatigue, Weight Gain and Altered  
 Sexuality in Breast Cancer Survivors"  
 Source: UNCC Senior Faculty  
 Role: Principal Investigator  
 Date: January 2005-June 2006  
 Amount: \$6,000

Title: "Symptom Cluster Intervention Development"  
 Source: Oncology Nursing Foundation Fellowship Role:  
 Principal Investigator  
 Dates: September 2002-September 2003  
 Funding: \$13,700

Title: "The Intensive Journal Method as a Tool to Measure Quality of Life Issues for  
 Hospice Patients and Their Caregivers"  
 Source: Elinor Caddell Grant, UNC Charlotte, to Dr. Linda Steele  
 Role: Methods Consultant  
 Funding: To Dr. Steele

Title: "Intimacy at the End of Life"  
 Source: Senior Faculty Research Program, UNC Charlotte; September 2001  
 Role: Principal Investigator  
 Dates: SEP 2001-JUN 2003  
 Funding: \$5,997

Title: "African American Women and Personal Issues After Breast Cancer"  
 Source: UNC Charlotte Summer Faculty Research Grant  
 Role: Co-Principal Investigator, with Dr. L. Delores Sanders  
 Dates: SEP 1999  
 Funding: \$2,740

Title: "Minority Women and Sexuality After Breast Cancer"  
 Source: Elinor Caddell Scholar, University of North Carolina at Charlotte  
 Role: Principal Investigator  
 Dates: MAR 1998

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Funding: \$1,000

Title: "How Enlisted Women on Active Duty Manage Breast Cancer"  
 Source: TriService Nursing Research Group  
 Role: Principal Investigator  
 Dates: AUG 1997-JUN 2000  
 Funding: \$133,964

Title: "Women's' Experiences Related to Sexuality After Breast Cancer: A Grounded Theory Study"  
 Source: Oncology Nursing Foundation / Chiron Therapeutics  
 University of Kansas Cancer Center; Intramural Funding  
 Role: Principal Investigator  
 Dates: 1996-1998  
 Funding: \$6,500 (Declined \$6,278 from KU Cancer Center due to move to North Carolina)

Title: "Effect of Social Support on Coping & Loneliness in Cancer Patients": Program Evaluation of 'Facing Cancer Together' Patient Support Program  
 Source: Unfunded Research  
 Role: Co-developer of the program  
 Dates: 1994-1995

Title: "Psychometric Testing of the Sexual Behaviors Questionnaire" (Dissertation Research)  
 Source: Sigma Theta Tau, Beta Xi Chapter Research Award, \$750  
 District 7, Maryland Nurses Association, \$750  
 American Cancer Society, Doctoral Scholar, \$24,000  
 Role: Principal Investigator  
 Dates: 1990--1993  
 Funding: \$25, 500

Title: "Refinement of the Sexual Adjustment Questionnaire"  
 Source: University of Delaware, College of Nursing,  
 Participant in the 'Outcome Measurement Project' sponsored by the University of Maryland & DHHS  
 Role: Participant/Principal Investigator  
 Dates: 1986-1988  
 Funding: None; Travel Only

Title: "Effects of Teaching on the Sexual Adjustment of Head & Neck Cancer Patients"  
 Source: American Cancer Society, DIMER Award, \$2800  
 University of Delaware, College of Nursing Grant in Aid, \$500  
 Summer 1983: University of Delaware, General University Grant, \$3400  
 Sigma Theta Tau, Beta Xi Chapter Grant \$750  
 University of Delaware, College of Nursing Grant in Aid, \$500.  
 Role: Co-Principal Investigator, with Dr. Julie Waterhouse

Dates: 1980-1985  
Funding: \$7,950 total

### **Research Consultations**

Title: "African American Women and Personal Issues After Cancer"  
Source: UNC Charlotte, Summer Faculty Research Grant  
Role: Consultant/Mentor to Dr. L. Delores Sanders  
Dates: Summer 2000  
Funding: \$4,000 to Dr. Sanders

### **Radiation Therapy Oncology Group/QOL Liaison**

Proposals on which I am the QOL Liaison:

1. A Phase III, double-blind, placebo-controlled study to evaluate the efficacy of Zometa for the prevention of osteoporosis and associated fractures in patients receiving radiation therapy and long term LHRH agonists for high-grade and/or locally advanced prostate cancer. PI: Dr. Colleen Lawton; **QOL Chair: Dr. Wilmoth**. Opened for accrual 28MAR2006
2. Phase II trial of preoperative image-guided tailored-field radiotherapy of large size soft tissue sarcoma of extremity or body wall. PI: Dr. Dian Wang; **QOL Chair: Dr. Wilmoth** Concept approved: December 12, 2007 by NCI; PUBLICATION UNDER REVIEW
3. Phase III Randomized Study of Concurrent Chemotherapy and Pelvic RT With or Without Adjuvant Chemotherapy in High-Risk Patients With Early-Stage Cervical Carcinoma Following Radical Hysterectomy . PI: Anuja Jhingran, MD; **QOL Chair: Dr. Wilmoth**; Concept Approved: September 24, 2008 by NCI

### **PRINT AND ELECTRONIC PUBLICATIONS**

#### **PEER REVIEWED PUBLICATIONS**

(Previous name: Margaret Chamberlain Metcalfe)

\*Data Based Papers

Rossiter, A.G., Patrician, P.A., Dumas, M.A., Ling, C.G., Johnson, H.L., & Wilmoth, M.C. (accepted Dec 2017 revisions submitted). I Serve 2: Identifying and Caring for Military Children in Civilian Primary Care Settings. *Journal of American Association of Nurse Practitioners*.

Fisher, E. & **Wilmoth, MC**. (online 11 August 2017). Do I take the job? Determining Organizational Fit. *Journal of Professional Nursing*, 33, online. DOI: <http://dx.doi.org/10.1016/j.profnurs.2017.08.003>.

\***Wilmoth, MC**, Harris, J., Wang, D., Kirsch, DG., Okuno, SH., Eisenberg, BL., et al (under review). Quality of Life Outcomes Associated with Reduced Field Image Guided Preoperative Radiotherapy for Primary Soft Tissue Sarcomas of the Extremity: NRG Oncology RTOG 0630. *American Journal of Clinical Oncology*.

**Wilmoth, M.C.**, La Flair, L.N., Azur, M., Norton, B.L, Sweeney, M., & Williams, T.V. (2017). Guest Editorial: How Well Are We Measuring Military Mental Health? *Military Medicine*, 182, (1), 1466-1468.

Rossiter, A. G., Dumas, M. A., **Wilmoth, M. C.**, & Patrician, P. A. (2016). "I Serve 2": Meeting the needs of military children in civilian practice. *Nursing Outlook*, -( ), 1-6. DOI: <http://dx.doi.org/10.1016/j.outlook.2016.05.011>.

\*Simon, S., Stewart K., Kloc M., Williams T. & **Wilmoth M.** (2016) Reliability of the Deployment Resiliency Assessment. *Military Medicine*, 181, (7), 638-642.

\***Wilmoth, M.C.**, Linton, A., Gromadzki, R., Larson, M.J., Williams, T.V., & Woodson, J. (2015). Factors Associated with Psychiatric Evacuation Among Service Members Deployed to Operation Enduring Freedom and Operation Iraqi Freedom, January 2004-September 2010. *Military Medicine*, 180 (1), 53-60.

\***Wilmoth M.C.**, Hanlon A.L., Ng L.S., Bruner D.W. (2014). Factor analysis of the modified Sexual Adjustment Questionnaire-Male. *Journal of Nursing Measurement*, 22(2):241-54. PubMed PMID: 25255676.

**Wilmoth, M.C.** & Shapiro, S.E. (June 2014). The Intentional Development of Nurses as Leaders: A Proposed Framework. *Journal of Nursing Administration*, 44 (6), 333-338.

Collins, E., **Wilmoth, M.C.**, Schwartz, L. (2013). "Have You Ever Served in the Military?" campaign in partnership with the Joining Forces Initiative. *Nursing Outlook* 61 (5), 375-376.

\*Alehagen S, **Wilmoth, M.C.**, & Berterö C. (2012). Defining and Clarifying Sexual Health: A Simultaneous Concept Analysis. *Sexual health* .In: Berhardt, L.V., (Ed.), *Advances in Medicine and Biology*. Volume 28, Chapter V. (pp. 177-197). Hauppauge, NY: Nova Science Publishers. ISBN 978-1-61324-359-6.

**Wilmoth, M.C.** (2011). Issue Brief: The Future of Nursing and the Health of North Carolinians: The North Carolina Summit. *North Carolina Medical Journal*, 72,(4), 278-281.

\***Wilmoth, M.C.**, Hatmaker-Flanigan, E., LaLoggia, V., & Nixon, T. (2011). Ovarian Cancer Survivors: Qualitative analysis of the symptom of sexuality. *Oncology Nursing Forum*, 38(6), 699-708.

\*Kiser, D.W., Greer, T., **Wilmoth, M.C.**, Dmochowski, J., & Naumann, R. W. (2010). Peripheral Neuropathy in Gynecological Cancer Patients Receiving Chemotherapy. *Oncology Nursing Forum* 37 (6), 758-764.

\***Wilmoth, M.C.**, Coleman, E.A., Wahab, H.T., Kneisl, J. (2009). Preliminary work in validating the symptom cluster of fatigue, weight gain, psychologic distress and altered sexuality. *Southern Online Journal of Nursing Research*, 9(3), Article 13.

**Wilmoth, M.C.** (2007). Guest Editor, *Nursing Clinics of North America*, 42(4).

**Wilmoth, M.C.** (2007). Sexuality: A Critical Component of Quality of Life in Chronic Disease. *Nursing Clinics of North American*, 42 (4), 507–514.

\***Wilmoth, MC**, Hester, C., Laboy, S. (2007). Symptom cluster identification in ovarian cancer patients: A pilot study. *Psycho-Oncology*, 16 (3, Supplement), S69.

\***Wilmoth, M.C.**, De Scisciolo, S., Gilchrest, L.J., Dmochowski, J. (2007). The READI and psychometric properties in Army Reserve soldiers. *Military Medicine*, 172 (8), 800-805.

\*Berterö, C. & **Wilmoth, M.C.** (2007). Breast cancer diagnosis and its treatment affecting the Self: A meta-synthesis. *Cancer Nursing*, 30(3), 194-202.

**Wilmoth, M.C.** (2006). Life after cancer: What does sexuality have to do with it? The 2006 Mara Mogenson Flaherty Memorial Lectureship. *Oncology Nursing Forum*, 33 (5), 905-910.

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\***Wilmoth, M.C.** & Ross, J.A. (1997). Women's Perceptions: Breast Cancer and Sexuality. *Cancer Practice*, 5(6), 353-359.

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## SERVICE PUBLICATIONS

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Cleary, B., Trautman, D. & **Wilmoth, MC** (May 2011). The Affordable Care Act and Impact on the Nursing Profession. *Nursing Spectrum*, pp 28-33.

**Wilmoth, M.C.** (May/June, 2007). Life after cancer: What does sexuality have to do with it? *Coping Magazine*, 44.

**Wilmoth, M.C.** & Bruner, D.W. (2002). Integrating sexuality into cancer nursing practice. *Oncology Nursing Updates*, 9(1), 1-14.

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**Wilmoth, M.C.** (1994). Strategies for becoming comfortable with sexual assessment. *Oncology Nursing News*, (Spring), 6-7.

## BOOK CHAPTERS

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**Wilmoth, M.C.** (2012) Sexuality. In I.M. Lubkin & P.D. Larsen (Eds.), *Chronic Illness: Impact and Interventions*, (8th ed.) (pp. 289-313). Boston: Jones & Bartlett.

**Wilmoth, M.C.** (2010). Sexuality. In C. Burke (Ed.), *Psychosocial Nursing Guidelines*. Pittsburgh: Oncology Nursing Society. (*major revision*)

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\***Wilmoth, M.C.**, Davis, B. & Sanders, L.D. (2008) When Black Women Talk about Breast Cancer: How Health Care Workers Need to Learn to Listen. In Sparks, L., Krebs, G. & O'Hair, D. (Eds.) *Cancer Communication and Aging*. (Chapter 8, pp. 147-168). Hampton Press.

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**Wilmoth, M.C.** (2004). Measuring Sexuality. In M. Frank-Stromberg and Olsen (Eds.) *Instruments for Clinical Health Care Research*. (3<sup>rd</sup>. Ed) (pp. 257-277). Philadelphia: Lippincott.

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**Metcalfe, M.C.** (1990). Reliability and validity testing of the sexual adjustment questionnaire. In O.L. Strickland & C.F. Waltz (Eds.) *Measurement of Nursing Outcomes, Vol. 4: Measuring Client Self-Care and Coping Skills*. New York: Springer.

## **BOOK REVIEWS**

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## **PROFESSIONAL/COMMUNITY SERVICE**

Organization	Year	Nature of Participation
American College of National Security Leaders	2017-	Inaugural Member

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American Bar Association	2016-present	Advisory Board Member, Military and Veterans Health Law, Task Force
American Association Of Colleges of Nursing	2013-2015	Member, Government Affairs Committee
Health Resources & Services Administration DHHS	2012-2016	Member, National Council on Nurse Education & Practice *Special Government Employee
American College of Physicians, ACPNet	2012-2014	Steering Committee Member
American Academy of Nursing	2011-2015	Co-Chair, Military/Veterans Expert Panel (Inaugural Chair)
	2015-	Member, National Advisory Board, "Have You Ever Served in the Military?" Campaign
	2015-2017	Member, Annual Meeting Planning Committee
Oncology Nursing Society	1977-present	Member
	1990-1992	Research Committee, Collaborative Member
	1994-1995	Coordinator-elect, Psychosocial Special Interest Group (SIG)
	1995-1997	Coordinator, Psychosocial SIG
	2011-2014	Chair Advanced Nursing Research SIG
	2013-	Research Advisory Panel, Scientific & Research Advocacy Subgroup
Gynecologic Cancer Steering Committee, National Cancer Institute	2006-2010	Member
Radiation Therapy Oncology Group (NRG Oncology)	2004-present	Quality of Life Liaison
McNair Scholar Program	2002/2003	Research Mentor For McNair Scholar UNC Charlotte
Mecklenburg County	1998-2000	Women's Commission Advisory Board Appointed by County Commissioners

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American Cancer Society	1995-1996	President-elect
Leavenworth Co. Unit, KS	1992-1994	Member, Board of Directors
Division	1994-1995	Representative, District Council
	1994-1996	Project Director, 'Facing Cancer Together'
American Cancer Society	1981-1985	Member, Board of Directors
Cecil County, MD Unit		Chair, Professional Education Committee
American Heart Assoc.	1980-1992	Certified Basic Life Support Instructor
Delaware Chapter		

**Abstract Reviewer**

2006-present	Sigma Theta Tau International
2003-2004	Oncology Nursing Society; Marcia Liebman New Writer Award
2002-2003	Phylis J. Verhonick Army Nursing Research Course
2002-04:	Sigma Theta Tau International

**Journal Reviewer**

2001-2003	<i>Adolescent and Family Health</i>
2003-2007	<i>Annals of Oncology</i>
2005-current	<i>Oncology Nursing Forum</i>
2007-current	<i>Chronic Illness</i>
2008-current	<i>Journal of Hospice and Palliative Care Nursing</i>
2009-current	<i>Journal of Obstetric, Gynecologic &amp; Neonatal Nursing (JOGNN)</i>
2012-current	<i>European Health Psychology Society</i>
2016-current	<i>Nursing Outlook</i>

**MEMBERSHIP IN PROFESSIONAL SOCIETIES**

Organization	Year	Nature of Participation
American Academy of Nursing	2008- 2011- 2011-2015	Fellow Member, Task Force on Future of Nsg Co-Chair, Military/Veterans Health Expert Panel
	2015- 2016-2018	Member, National Advisory Council "Have You Ever Served?" Campaign Member, Program Planning Committee
American Nurses Association	1976-present 2014-2016	Member Member, Advisory Committee, Professional Issues Panel on Workplace Violence and

		Civility
Georgia Nurses Association	2012-present	Member
Academic Advisory Committee On Nursing, GA Board of Regents (AACON)	2012-2014 2014-2015	Member; Director at Large Veteran Nurse to Educator Fellowship co-leader
Georgia Nurse Leader Coalition (FON Action Coalition)	2012-2014	Education Task Force co-lead
North Carolina Nurses Assoc.	1996-2019 2001-05  1997-06 1998-05	Member Southwest Regional Coordinator, NCNA Board of Directors Convention Delegate Member, Commission on Education
North Carolina Foundation For Nursing	2006-2010 2005-2006	Chair, Board of Trustees Trustee
Oncology Nursing Society	1977-present 1990-92  1994-95  1995-97  1994-present 1996-present 2010-2014 2011-2012 2012-2014	Member Research Committee, Collaborative Member Coordinator-elect, Psychosocial SIG Coordinator, Psychosocial Special Interest Group Member, Psychosocial SIG Member, Advanced Research SIG Member, Research Advisory Committee Chair Elect, Advanced Nsg Research SIG Chair, Advanced Nursing Research SIG
Sigma Theta Tau International level Pi Chapter Gamma Iota Chapter	1979-present 2002-04 1970-present 1996-present 1998-2000	Member Collateral Reviewer Member Member Treasurer
National Gerontological Nursing Association UNC Charlotte Chapter	1999-2001  1999-2003	Member  Charter Member, Treasurer
Kansas State Nurses Assoc.	1992-96	Member

Maryland Nurses Association	1976-92	Member
District 7	1980-8	Chair, Legislative Comm.
	1981-82	Member, Legislative Comm.
	1985-86	Convention Planning
	Committee 1986-87	Member, Bylaws
	Committee	

**OTHER MEMBERSHIPS**

Radiation Therapy Oncology Group	2005-2009	Quality of Life Liaison Breast and Gyn Committees
Reserve Officer Association,	1992-present 2017-2018	Life Member; Army Section Chair, MO Department
The Association of Military Surgeons of the United States	1998-present	
Association of the US Army present	2005-	
Senior Army Reserve present Commanders Association	2005-	
The American Legion present	2017-	

**PRESENTATIONS****Professional Peer-Reviewed and Invited Presentations**

(\* = Invited' # = Peer-Reviewed)

<u>Title</u>	<u>Date</u>	<u>Organization</u>
#Deployment Related Needs of Army Reserve Soldiers (Poster Presentation)_	JUL 2017	Sigma Theta Tau  International, Annual Research Conference, Dublin, Ireland
# Improving Health Outcomes of Military Children Through Research and Policy Initiatives (Paper Presentation)	JUL2017	Sigma Theta Tau International, Annual Research Conference Dublin, Ireland

*Invited Panelist, IOM Medicine Committee on Military Trauma D.C. Care's Learning Health System and its Translation to the Civilian Sector	JAN 2016	Institute of Washington,
#"Factors Associated with Psychiatric Research Evacuation among Service Members Deployed to OEF/OIF January 2003-September 2010"	JUN 2013	Academy Health, Annual Meeting, Baltimore, MD
*Panel on Veterans Mental Health Research Panel Discussant	JUN 2013	Invited, Academy Health, Annual Meeting, Baltimore, MD
**"Health Reform & Nursing Association Practice"	FEB 2012	UNC Charlotte Alumni Invited Plenary Speaker
**"Interdisciplinary Team-based Excellence Learning-A Participation Session" (PEEAC)	SEP 2011	Pediatric Educational Across the Continuum  Conference, Arlington, VA, (Invited)
**"Nurses: Trusted to Care"	May 2011	Invited, Emory Health Care; Keynote Speaker, Nurses Week
**"Health Reform and Nurse Leaders"	OCT 2010	Invited; Idaho Alliance for Leaders In Nursing, Sun Valley, ID
*The Affordable Care Act: Implications for North Carolina	OCT 2010	North Carolina Nurses Association Annual Convention, Winston-Salem, NC
#"The Experiences of Ovarian Cancer Survivors Related to Sexuality" (poster presentation)	OCT 2008	CANS, Washington, DC
#"Living with Chronic Illness: What does sexuality have to do with it?" (Invited Presentation)	APR 2008	Sigma Theta Tau, Upsilon Mu 6 <sup>th</sup> Annual Research Forum, Concord, NC
**"Life After Cancer: What Does Cancer Have to do with it?" (Invited Presentation)	SEP 2007	Yale- New Haven Chapter, Oncology Nursing Society
**"Symptom Cluster Identification In Ovarian Cancer: Pilot Work" (Competitive Paper Selection)	APR 2007	Society for Gynecology Oncology Nurses Annual Meeting; Atlanta, GA; Received SGNO "Paula Major Leadership Award".

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*"Life & Sexuality After Cancer" (Invited Presentation)	MAR 2007	Puget Sound Chapter, ONS, Keynote Speaker; Seattle, WA.
#"Symptom Cluster Identification In Ovarian Cancer Patients: Pilot Work" TX (Poster)	MAR 2007	American Psychosocial Oncology Society Austin,
*"Life After Cancer: What Does Memorial Cancer Have to do with it?" Society (Competitive Selection)	MAY 2006	Mara Mogenson Flaherty Lecture, Oncology Nursing  Annual Congress, Boston, MA
#"Women's Perceptions of the Self": Meta-Synthesis of the Qualitative Literature 1990-2003" (Paper)	FEB 2005	Southern Nursing Research Society Atlanta, Ga; Oncology Nursing  8 <sup>th</sup> Annual Cancer Nursing Research Conference, Ft. Lauderdale, FL
#"African American Women and Sexuality After Breast Cancer" International (Paper)	JUL 2002	13 <sup>th</sup> International Nursing Research Congress, Sigma Theta Tau  Brisbane, Australia
#"Enlisted Women with Breast Veteran Cancer: Balancing Demands"	JUN2002	Health Issues of Military & Women, Arlington, VA
#"Enlisted Women with Breast Cancer: Balancing Demands (Paper)	MAY2002	12 <sup>th</sup> Biennial Phyllis J. Verhonick Nursing Research Course, US Army, San Antonio, TX
#"Enlisted Women with Breast Cancer: Balancing Demands" (Poster)	MAR 2002	5 <sup>th</sup> Annual Research Day UNC Charlotte
#"How Enlisted Women on Active Duty Manage Breast Cancer" (Poster Presentation)	FEB 2001	Southern Nursing Research Society, Annual Conference Baltimore, MD
#"Accept me for myself: African American women's Issues after breast cancer" (Paper Presentation)	MAR 2000	4th Annual Research Day UNC Charlotte Charlotte, NC
#"Accept me for myself: African American women's issues after breast cancer"	FEB 2000	Southern Nursing Research Society, Annual Conference, Little Rock, AK.

(Paper Presentation)

#“Adjusting to an Altered Sexual Self: The Aftermath Of Breast Cancer” (Paper Presentation)	JUN1999	10th International Interdisciplinary Congress on Women’s Health Issues Indianapolis, IN
#“Adjusting to an Altered Sexual Self: The Aftermath Of Breast Cancer” (Poster Presentation)	APR 1999	24th Annual Congress, Oncology Nursing Society, Atlanta, GA
#"Accept me for myself: African American women's issues after breast cancer" (Paper Presentation)	APR 1999	Annual Research Day UNC Wilmington Wilmington, NC
#“Adjusting to an Altered Sexual Self: The Aftermath Of Breast Cancer” (Poster Presentation)	MAR 1999	3rd Annual Research Day UNC Charlotte Charlotte, NC
#“Sexuality After Breast Cancer: A Grounded Theory” (Poster) (Poster Presentation)	FEB 1999	Oncology Nursing Society 5th National Conference on Cancer Nursing Research Newport Beach, CA
#“Women’s Perceptions of the Impact of Breast Cancer (Paper Presentation)	APR 1998	2nd Annual Research Day UNC Charlotte Charlotte, NC
*“Sexuality After Breast Cancer”	APR 1997	National Cancer Institute of Canada CTG, Keynote Speech, Montreal, Canada
#“Testing of the Sexual Behaviors Questionnaire” (Poster Presentation)	APR 1997	1st Annual Research Day UNC Charlotte Charlotte, NC
#“Women’s Experiences Related to Sexuality After Breast Cancer (Paper Presentation)	APR 1996	US Army, Ninth Biennial P.J. Verhonick Nursing Research Conference, San Antonio, TX
#"Testing of the Sexual Behaviors Questionnaire" (Poster Presentation)	JUN 1994	US Army, Eighth Biennial P.J. Verhonick Nursing Research Course, FAMC
#"A Comparison of the January 2018	JUN 1994	US Army, Eighth Biennial

Effects of Lumpectomy vs. Mastectomy on Sexual Behaviors" (Paper Presentation)		P.J. Verhonick Nursing Research Course, FAMC
#"Development & Testing of the Sexual Behaviors Questionnaire" (Poster Presentation)	JAN 1994	American Cancer Society's 3rd Annual Cancer Nursing Research Conference, Newport Beach, CA
#"Hysterectomy and Gender Identity" (Paper Presentation)	FEB 1991	Critical Theory-Feminist Theory & Nursing Inquiry Conference, Medical College of Ohio, Toledo, Ohio
#"Reliability & Validity of the Sexual Adjustment Questionnaire" (Paper Presentation)	MAR 1988	Measurement of Educational & Clinical Outcomes Project San Diego, CA.
#"A Tool for Measuring Sexual Adjustment in Head & Neck Cancer Patients" (Paper Presentation)	MAY 1985	AASECT Annual Meeting Chicago, Il.
#"Adjustments in Sexuality Made by Head & Neck Cancer Patients" (Paper Presentation)	MAY 1980	Oncology Nursing Society 5th Annual Congress, San Diego, CA.

### **Presentations at Continuing Education Courses**

<u>Title</u>	<u>Date</u>	<u>Organization</u>
"Have You Ever Served?"	SEP 2014	Georgia Accountability Courts Annual Meeting
"Health Reform and the Future Of Nursing"	MAR2011	District 5 Mtg, NCNA Charlotte, NC
"NC Nurses: The Power to Care"	MAY 2003	District 4, NCNA Statesville, NC
"The Thrill of Nursing Research"	JAN 2003	Gamma Iota Chapter, Sigma Theta Tau International
"Military Nursing Research"	NOV 2002	AMSUS Louisville, KY
"Breast Health Facts"	APR 2002	Sisters In Partnership Natural Helper Training

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Concord, NC

“Personal Issues of Women after Breast Cancer”	MAR 2001	Carolina Medical Center Nursing Research Committee Charlotte, NC
“How Do I Include Sexuality In My Practice? Tips and Techniques”	NOV 2000	Oncology Nursing Society First Annual Institutes of Learning, Charlotte, NC
“Nutrition & Exercise in the Elderly”	AUG 2000	Military Retirees Association Charlotte, NC
“Measurement of Sexual Behaviors as an Outcome of Quality of Life”	APR 1997	Queen Elizabeth II Health Sciences Centre, Halifax, Nova Scotia
“Including Sexuality Assessment into Nursing Practice” (6hour CE Course)	APR 1997	QE II Health Sciences Centre’ Halifax, Nova Scotia
“Women at Midlife”	OCT 1996	Dwight D. Eisenhower VAMC, Leavenworth, KS
"Breast Cancer & Intimacy"	MAY 1995	Missouri Department of Health; Breast & Cervical Cancer Control Project
"Support for the Newly Diagnosed Breast Cancer Patient re: Sexual Concerns	AUG 1994	Missouri Div., ACS 8th Breast Cancer Awareness Seminar
"Sexuality after Breast Cancer"	JUL 1994	HUGS Support Group St. Luke's Northland Kansas City, MO
"Sexual Concerns of Women with Breast Cancer	MAY 1994	Nurses Day Symposium Leavenworth Nurses Assoc.
"Sexuality After Breast Cancer"	MAR 1994	TOUCH Support Group Menorah Medical Center Kansas, City, MO.
"Intimacy and Diabetes"	DEC 1993	American Diabetes Assoc. Clay-Platte Chapter, MO.
"Sexuality and Breast Cancer"	OCT 1993	American Cancer Society, Breast Cancer Awareness Month Public Education Seminars, MO
"Psychosocial Aspects/ Sexuality & Breast Cancer	JUL 1993	American Cancer Society Missouri Division, Breast Cancer Awareness Facilitator Training
"Sexuality & the Cancer Patient" Course, January 2018	MAR 1992	Main Line Health, Inc. Comprehensive Cancer Nursing Bryn Mawr, PA

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"Patient Assessment: Not Just the Physical"	OCT 1991	American Cancer Society Delaware Division, Nsg Adv. Comm.
"Cancer and Sexuality"	September 30, 1991 11/4; 12/9; 1/13/92	Bryn Mawr Hospital Bryn Mawr, PA.

"Including Sexuality in Your Nursing Care"	JUL 1991	Blanchfield Army Community Hospital, Ft. Campbell, KY
"Sexuality and Cancer: Nursing Issues"	JAN 1991	Delaware Diamond Chapter, ONS
"Update on Sexually Transmitted Diseases in Adolescents"	APR 1990	A.I. Dupont Institute of the Nemours Foundation; College of Nursing, University of Delaware
"Sexual Dysfunctions in Cancer Patients" (Round Table)	MAR 1990	Medical Center of Delaware
"Myelosuppression" "Effects of Chemotherapy on Sexuality" at "Cancer Chemotherapy Update"	OCT 1984	University of Delaware College of Nursing & American Cancer Society, Delaware Chapter
"Sexuality" component of "I Can Cope" program	APR, 1982	American Cancer Society Delaware Chapter
"Sexuality & Nursing Practice"	NOV 1982	Colloquium, College of Nursing, University of Delaware

# Exhibit B

**List of documents relied upon:**

- Department of Defense Instruction 1332.18 (Disability Evaluation System) (August 5, 2014)
- Carter, Memorandum for Secretaries of the Military Departments (July 28, 2015)
- RAND Corporation, Schaefer, et al., *Assessing the Implications of Allowing Transgender Personnel to Serve Openly* (May 2016)
- Department of Defense Directive-type Memorandum 16-005, “Military Service of Transgender Service Members” (June 30, 2016)
- Carter, *Remarks on Ending the Ban on Transgender Service in the U.S. Military* (June 30, 2016)
- Department of Defense Release NR-246-16, *Secretary of Defense Ash Carter Announces Policy for Transgender Service Members* (June 30, 2016)
- Department of Defense Instruction 1300.28 (In-service Transition for Transgender Service Members) (June 30, 2016)
- Guice, Memorandum for Assistant Secretaries, *Guidance for Treatment of Gender Dysphoria for Active and Reserve Component Service Members* (June 30, 2016)
- Department of Defense, *Transgender Service in the U.S. Military: An Implementation Handbook* (September 30, 2016)
- Department of Defense Release NR-250-17, *Statement by Chief Pentagon Spokesperson Dana W. White on Transgender Accessions* (June 30, 2017)
- Donald J. Trump (@realDonaldTrump), Twitter (July 26, 2017, 5:55 AM), <https://twitter.com/realDonaldTrump/status/890193981585444864>
- Donald J. Trump (@realDonaldTrump), Twitter (July 26, 2017, 6:04 AM), <https://twitter.com/realDonaldTrump/status/890196164313833472>
- Donald J. Trump (@realDonaldTrump), Twitter (July 26, 2017, 6:08 AM), <https://twitter.com/realDonaldTrump/status/890197095151546369>
- Presidential Memorandum for the Secretary of Defense and the Secretary of Homeland Security (August 25, 2017)
- Department of Defense Release NR-312-17, *Statement by Secretary of Defense Jim Mattis on Military Service by Transgender Individuals* (August 29, 2017)
- Mattis, Memorandum for Secretaries, *Military Service by Transgender Individuals – Interim Guidance* (September 14, 2017)

- Department of Defense, *Report and Recommendations on Military Service by Transgender Persons* (February 2018)
- Secretary of Defense James Mattis, *Memorandum for the President, Military Service by Transgender Individuals* (February 22, 2018)
- Presidential Memorandum for the Secretary of Defense and the Secretary of Homeland Security (March 23, 2018)

# Exhibit C



SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

SUBJECT: Transgender Service Members

JUL 28 2015

Effective as of July 13, 2015, no Service member shall be involuntarily separated or denied reenlistment or continuation of active or reserve service on the basis of their gender identity, without the personal approval of the Under Secretary of Defense for Personnel and Readiness. This approval authority may not be further delegated.

The Under Secretary of Defense for Personnel and Readiness will chair a working group composed of senior representatives from each of the Military Departments, Joint Staff, and relevant components from the Office of the Secretary of Defense to formulate policy options for the DoD regarding the military service of transgender Service members. The working group will start with the presumption that transgender persons can serve openly without adverse impact on military effectiveness and readiness, unless and except where objective, practical impediments are identified, and shall present its recommendations to me within 180 days. Pending the issuance of DoD-wide policy following the submission of the working group's report, any interim guidance issued by the Military Departments will be coordinated with, and subject to the prior personal approval of, the Under Secretary of Defense for Personnel and Readiness. If questions relating to the service of transgender members arise, the Military Departments should address them to the Under Secretary of Defense for Personnel and Readiness.

A handwritten signature in black ink that reads "Ash Carter".

cc:  
DepSecDef  
CJCS  
USDs  
DoD, GC  
ASD(LA)  
ATSD(PA)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of September, 2018, copies of the foregoing were served on the following counsel via electronic mail.

**Counsel:**

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*/s/ Jordan M. Heinz* \_\_\_\_\_

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KIRKLAND & ELLIS LLP  
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# Exhibit 6

# KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

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August 23, 2019

## By E-mail

Andrew E. Carmichael  
United States Department of Justice  
Civil Division, Federal Programs Branch  
(202) 514-4336

Re: Document Productions of Communications with Third Parties in *Karnoski et al. v. Trump et al.*, 2:17-cv-01297-MJP

Dear Drew:

I write to request clarification regarding Defendants' document productions and interrogatory responses as they pertain to Defendants' communications with and documents containing two specific third parties. Plaintiffs recently received communications between the Department of Defense and third party Paul McHugh ("McHugh"). See MCHUGH00001 through MCHUGH00085. In one of those documents, on February 11, 2018, William Bushman of the Office of the Secretary of Defense ("Bushman") asks McHugh, "During our call, I believe you mentioned there were other individuals who could also serve as resources for our policy review. Do you know of any other persons we should consider reaching out to?" MCHUGH00085. On February 12, 2018, McHugh responds, "Mr. Bushman, You might contact Dr. Chester Schmidt here at Hokins [sic] and Dr. Thomas Wise at Fairfield." MCHUGH00084.

Plaintiffs have searched the documents produced by Defendants to date for communications with or documents containing reference to Chester Schmidt or Thomas Wise. However, Defendants do not appear to have produced any communications with or documents containing reference to either of these individuals. Plaintiffs have also searched the privilege logs produced by Defendants, but have been unable to locate any entries for communications or documents containing Chester Schmidt or Thomas Wise that have been withheld based on any claim for privilege. To the extent that Defendants did in fact communicate with Chester Schmidt or Thomas Wise, Plaintiffs believe that these communications would be responsive to a number of Plaintiffs' requests for production ("RFPs"). For example, RFP No. 29 requests:

All Documents or Communications relating or referring to the February 2018 Department of Defense Report and Recommendations on Military Service by

## KIRKLAND & ELLIS LLP

Andrew E. Carmichael  
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Page 2

Transgender Persons (the “Report and Recommendations”), including without limitation: (a) all documents received, reviewed, or considered by the Department of Defense, Panel of Experts, Transgender Service Policy Working Group, and/or any other group or committee within the Department of Defense that reviewed or considered transgender issues; (b) all Communications to, from, or copying the Department of Defense, Panel of Experts, Transgender Service Policy Working Group, and/or any other group or committee within the Department of Defense that reviewed or considered transgender issues; (c) all Documents reflecting, containing, or setting forth any information or data received, reviewed, or considered by the Department of Defense, Panel of Experts, Transgender Service Policy Working Group, and/or any other group or committee within the Department of Defense that reviewed or considered transgender issues; (d) all Documents relating, reflecting, or referring to matters discussed at any meeting of the Panel of Experts, Transgender Service Policy Working Group, and/or any other group or committee within the Department of Defense that reviewed or considered transgender issues; (e) all drafts of the Report and Recommendations.

Additionally, RFP No. 31 requests:

All Documents and Communications relating or referring to any person or group providing analysis, advice, or recommendations to Secretary Mattis, the Department of Defense, and/or the Panel of Experts concerning the Report and Recommendations, military service by transgender people or any restrictions on such service, including the Transgender Service Policy Working Group and/or any other group or committee within the Department of Defense that reviewed or considered transgender issues.

Defendants agreed to produce documents responsive to these and other RFPs to which documents and communications with Chester Schmidt and Thomas Wise may be responsive. *See also* RFP Nos. 1, 8, 27, 28, 30, 32, 33.

Plaintiffs also believe that communications with Paul McHugh, Chester Schmidt, and Thomas Wise would be responsive to certain interrogatories. For example, Interrogatory No. 7 states:

Explain the process You used to formulate the Tweets, the Presidential Memorandum, the Interim Guidance, and the Implementation Plan, and identify all sources of fact or opinion You consulted, considered, or otherwise referred to and the dates on which You first consulted, considered, or otherwise referred to such sources of information or opinion.

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Page 3

*See also* Interrogatory Nos. 18 & 19. Despite the responsiveness of these communications, none of the three individuals' names appear in Defendants' interrogatory responses.

Because Plaintiffs believe that Defendants' communications with or documents containing reference to Paul McHugh, Chester Schmidt, or Thomas Wise are responsive to Plaintiffs' RFPs and interrogatories, please amend your interrogatory responses accordingly and produce these responsive documents (including notes of telephone calls or voicemails) or, to the extent that they do not exist, please confirm that no such responsive documents exist, by August 30, 2019.

Sincerely,

/s/ Vanessa Barsanti

Vanessa Barsanti

# Exhibit 7



**U.S. Department of Justice**  
Civil Division, Federal Program Branch

Andrew E. Carmichael  
Trial Attorney

Tel: (202) 514-3346  
Email: andrew.e.carmichael@usdoj.gov

September 13, 2019

By Email

Vanessa Barsanti  
Kirkland & Ellis LLP  
300 North LaSalle  
Chicago, IL 60654

*Counsel for Plaintiffs*

Re: Documents Productions of Communications with Third Parties in *Karnoski v. Trump*, 2:17-cv-01297-MJP (W.D. Wash.)

Dear Vanessa,

In response to your letter of August 23, 2019, the Department of Defense (“DoD”) believes it has reasonably searched for and collected materials that would reflect possible outreach to, actual communications with, or conversations stemming from communication with Dr. Paul McHugh, Dr. Chester Schmidt or Dr. Thomas Wise in conjunction with DoD’s review of military service by transgender individuals and individuals with gender dysphoria.

In response to your letter DoD conducted a search in its Electronic Discovery database and identified the following documents in its collection that reference at least one of these individuals. That list is as follows:

**Documents DoD or the Military Services have previously released in full:**

USDOE00134724

USDOE00206512 - USDOE00206513

USDOE00207706

**Documents over which DoD or the Military Services have asserted deliberative process privilege:**

USDOE00134732

USDOE00206588

USDOE00206610

USDOE00206612

USDOE00206614

USDOE00206616

USDOE00206618

USDOE00206620

USDOE00206622

USDOE00206743

USDOE00207482 (with attorney client and/or work product privilege redactions)

USDOE00207525

USDOE00207527

USDOE00207591 (with attorney client and/or work product privilege redactions)

USDOE00238554 (with attorney client and/or work product privilege redactions)

USDOE00263483 (with attorney client and/or work product privilege redactions)

USDOE00263525 (with attorney client and/or work product privilege redactions)

Attorneys from the Department of Defense then reviewed these documents and spoke with the following custodians of the documents listed above to determine if they had any additional documents in their possession that reflected communications with any of these individuals:

Ryan Newman

Will Bushman

Colonel Mary Krueger, USA

One custodian, Mr. Newman, a DoD attorney, indicated that he had one additional document containing hand written notes from a phone call with Dr. McHugh on February 5, 2018. This document was collected and will be withheld pursuant to the attorney work product privilege. DoD will prepare a privilege log with additional details pertaining to this document. None of the other custodians DoD spoke with regarding your letter indicated that they had additional documents reflecting communications with these individuals. Further, DoD confirmed that Mr. Bushman never spoke with Dr. Chester Schmidt or Dr. Thomas Wise.

Attorneys from DoD also spoke with Dr. Terry Adirim (compiled and presented health related data to the Panel of Experts) and David Gruber (served as an advisor to the Carter Transgender Working Group) to confirm that neither Dr. Paul McHugh, Dr. Chester Schmidt or Dr. Thomas Wise presented to the Carter Transgender Working Group or the Panel of Experts.

At your request, DoD will no longer assert the deliberative process privilege over any of the documents listed above. However, where other privileges apply DoD will maintain its assertion of those privileges. The documents over which DoD is no longer asserting privilege will be included in a forthcoming production.

Sincerely,

/s/ Andrew E. Carmichael

Andrew E. Carmichael

# Exhibit 8

**From:** Krueger, Mary V COL USARMY HQDA ASA MRA (US)  
**To:** Biggerstaff, William C (Casey) MAJ USARMY 3 ID (USA)  
**Subject:** FW: JHU Psychiatrist (UNCLASSIFIED)  
**Date:**

---

CLASSIFICATION: UNCLASSIFIED

Casey,

v/r  
MVK

-----Original Message-----

**From:** Guice, Karen S SES (US)  
**Sent:** Friday, October 16, 2015 10:23 AM  
**To:** Wilmoth, Margaret C MG USARMY (US) <margaret.c.wilmoth.mil@mail.mil>; Allen, Roosevelt Jr Maj Gen USAF AF-SG (US) <roosevelt.allen4.mil@mail.mil>; Iverson, Kenneth J RDML USN BUMED FCH VA (US) <kenneth.j.iverson.mil@mail.mil>  
**Cc:** Krueger, Mary V COL USARMY HQDA ASA MRA (US) <mary.v.krueger.mil@mail.mil>  
**Subject:** RE: JHU Psychiatrist (UNCLASSIFIED)

Peggy:

Thank you for the reference. I do not believe the prior experts were advocates; rather they were experienced specialists who provide care to this population. Sec. Carson has asked me to vet each expert prior to inviting them to the WG. I have identified some behavioral health experts and will put your referred individual in the mix for my interview.

-----Original Message-----

**From:** Wilmoth, Margaret C MG USARMY (US)  
**Sent:** Thursday, October 15, 2015 7:58 PM  
**To:** Guice, Karen S SES (US); Allen, Roosevelt Jr Maj Gen USAF AF-SG (US); Iverson, Kenneth J RDML USN BUMED FCH VA (US)  
**Cc:** Krueger, Mary V COL USARMY HQDA ASA MRA (US)  
**Subject:** JHU Psychiatrist (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: FOUO

Dr. Guice and colleagues,

I understand that a BH expert will be coming to one of the TG Work group meetings. All of the speakers we have had speak come from an advocacy perspective.

I have learned of a Johns Hopkins psychiatrist, Dr. Paul R. McHugh, who might view the BH aspects of TG from the opposite perspective which I believe might help us in providing the Senior leader group with the opportunity to have hear from all sides of the issue. Using the "Abilene" analogy, I would rather we get to a decision knowing how we got there by hearing from all sides of this important decision rather than just hearing from advocates.

He is an Emeritus professor at Hopkins; his contact info can be found at:  
[www.hopkinsmedicine.org/profiles/results/directory/profile/0003340/paul-mchugh](http://www.hopkinsmedicine.org/profiles/results/directory/profile/0003340/paul-mchugh)  
I am happy to contact him on behalf of the group.  
Thoughts?

v/r  
Peggy

Margaret C. Wilmoth, PhD, MSS, RN, FAAN  
Major General  
Deputy Surgeon General for Mobilization, Readiness and  
Army Reserve Affairs  
Office of the Surgeon General

Cell: [REDACTED]  
Office: 703-681-8151/6298  
Email: Margaret.C.Wilmoth.mil@mail.mil

Classification: UNCLASSIFIED  
Caveats: FOUO

CLASSIFICATION: UNCLASSIFIED

# Exhibit 9

The Honorable Marsha J. Pechman

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

RYAN KARNOSKI, et al.,

*Plaintiffs, and*

STATE OF WASHINGTON,

*Plaintiff-Intervenor,*

v.

DONALD J. TRUMP, in his official capacity  
as President of the United States, et al.,

*Defendants.*

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

**PLAINTIFFS' THIRD REQUESTS FOR  
PRODUCTION TO DEFENDANTS**

1 Pursuant to Federal Rules of Civil Procedure 26 and 34, Plaintiffs propound the following  
2 requests for production of documents to Defendants to be responded to within 30 days of service.  
3 Plaintiffs request that all documents and electronically stored information responsive to the  
4 following discovery requests be produced electronically, or alternatively, at the offices of  
5 Kirkland & Ellis LLP, 300 North LaSalle Street, Chicago, Illinois 60654.

6 **THIRD REQUESTS FOR PRODUCTION**

7 36. All documents reflecting, referring, or relating to any complaints arising from or  
8 attributed to open service by transgender service members, accessions by transgender  
9 individuals, or the Carter Policy.

10 37. Documents sufficient to show the number of persons accessed into the military while  
11 known by military officials to be transgender, and the number of persons retained by the military  
12 after becoming known as transgender, since June 30, 2016.

13 38. Documents sufficient to show both the number of persons accessed into the military  
14 while known by the military to have a diagnosis of gender dysphoria, and the number of persons  
15 retained by the military after a diagnosis of gender dysphoria while in military service, since  
16 June 30, 2016.

17 39. All documents relating to numbers or estimates of persons with gender dysphoria  
18 (whether or not presently diagnosed) currently serving in the military, or who are in the process  
19 of accessing.

20 40. All documents relating to the numbers or estimates of transgender persons (whether  
21 or not open about their gender identity) currently serving in the military, or who are in the  
22 process of accessing.

23 41. All documents describing or relating to differences in the number of transgender  
24 persons in the military and the number of persons with gender dysphoria in the military, if a  
25 difference in those numbers exists.

26 42. Documents sufficient to show, for each service branch since June 30, 2016, the  
27 name, rank, and service unit of each service member a) who requested a change to their gender  
28 marker in the Defense Enrollment Eligibility Reporting System (DEERS), and b) whose gender

1 marker in DEERS has been changed.

2 43. Documents sufficient to show the number, identity, service branch and military unit,  
3 theatre, and circumstances of any transgender service member evacuated from theatres of  
4 deployment due to medical and/or mental health reasons since June 30, 2016, including the  
5 nature of the medical or mental health reason and the circumstances that led to the decision to  
6 evacuate.

7 44. Documents sufficient to show, for each service branch since June 30, 2016, the  
8 name, rank, and service unit of each transgender service member rendered non-deployable on  
9 account of gender dysphoria or transition-related medical care, and the duration of and specific  
10 reason(s) for such non-deployability.

11 45. Documents sufficient to show, for each service branch for the period since June 30,  
12 2016, the name, rank, and service unit of each transgender service member who was deployed  
13 overseas, and the duration, location, and nature of their deployment.

14 46. Documents sufficient to show the considerations the military takes into account, and  
15 the process it utilizes, in determining which medical and mental health conditions and treatments  
16 should be included in Department of Defense Instruction (DODI) 6130.03.

17 47. Documents sufficient to show, for each service branch, the considerations the branch  
18 takes into account, and the process(es) it utilizes, both as to accession into military service and  
19 with respect to retention in service of current service members, when determining whether to  
20 grant applications for waivers of disqualifying mental or medical conditions including:

21 hypogonadism; chest surgery; genital repair and/or reconstruction surgery; adrenal dysfunction;  
22 hyperparathyroidism; hypoparathyroidism; pituitary dysfunction; hormone treatment; conditions  
23 or medical histories described by DODI 6130.03 §§ 5.13-5.14; anxiety; depression; body  
24 dysmorphia; suicidal ideation; past suicide attempts; history of self-harm; post-traumatic stress  
25 disorder; and history of malignancy, including prostate, testicular, ovarian and breast  
26 malignancies.

27 48. Documents sufficient to show the total number of applications granted, and number  
28 of applications denied, for waiver of disqualifying conditions listed in DODI 6130.03, since June

1 30, 2016.

2 49. Documents sufficient to show the number of waivers granted upon accession, and  
3 number of waivers denied upon accession, for each of the following conditions: hypogonadism;  
4 chest surgery; genital repair and/or reconstruction surgery; adrenal dysfunction;  
5 hyperparathyroidism; hypoparathyroidism; pituitary dysfunction; and hormone treatment;  
6 conditions or medical histories described by DODI 6130.03 §§ 5.13-5.14; anxiety; depression;  
7 body dysmorphia; suicidal ideation; past suicide attempts; history of self-harm; and post-  
8 traumatic stress disorder; history of malignancy, including without limitation history of prostate,  
9 testicular, ovarian or breast malignancies; since June 30, 2016.

10 50. Documents sufficient to show the number of waivers granted for service members  
11 seeking retention, and number of waivers denied for service members seeking retention, for each  
12 of the following conditions: hypogonadism; chest surgery; genital repair and/or reconstruction  
13 surgery; adrenal dysfunction; hyperparathyroidism; hypoparathyroidism; pituitary dysfunction;  
14 and hormone treatment; conditions or medical histories described by DODI 6130.03 §§ 5.13-  
15 5.14; anxiety; depression; body dysmorphia; suicidal ideation; past suicide attempts; history of  
16 self-harm; and post-traumatic stress disorder; history of malignancy, including without limitation  
17 history of prostate, testicular, ovarian or breast malignancies; since June 30, 2016.

18 51. Documents sufficient to show the number of openly transgender individuals granted  
19 waivers for non-gender-dysphoria conditions or histories, and allowed to be accessed or retained  
20 pursuant to those waivers, since June 30, 2016.

21 52. Documents sufficient to show the number of openly transgender individuals denied  
22 waivers for non-gender-dysphoria conditions or histories, and denied accession or retention  
23 absent those waivers, since June 30, 2016.

24 53. All documents reflecting, referring or relating to any request by transgender persons  
25 for medical and/or mental health waivers of conditions disqualifying them from accession to or  
26 retention in the military, including without limitation all documents reflecting the date of and  
27 grounds for such request, whether the request was for accession or retention, whether the request  
28 was granted or denied, and the basis for such decision.

1 54. All documents reflecting, referring, contemplating, or relating to requests made on or  
2 after April 12, 2019 to waive the disqualifying condition of gender dysphoria, including without  
3 limitation documents reflecting criteria that will inform decisions upon those waiver requests,  
4 documents reflecting the date of and grounds for each such request, documents showing whether  
5 each request was granted or denied and the basis for such decision, and documents showing  
6 whether those decisions were made upon the subject individual's attempted accession into, or  
7 instead retention by, the military.

8 55. Documents sufficient to show the total number of mental health visits by all service  
9 members for each branch of service, by month, since July 13, 2015.

10 56. Documents sufficient to show, for each branch of service since June 30, 2016, the  
11 number of exceptions to or exemptions made from sex-based standards for non-transgender  
12 females, and the reason(s) for such exceptions, including without limitation exceptions for  
13 standards respecting: physical fitness tests; body fat; dress standards; and/or boxing and  
14 combatives.

15 57. Documents sufficient to show, for each branch of service since June 30, 2016, the  
16 branch's policies with respect to "limited duty," including without limitation the reasons for  
17 and/or circumstances under which a service member will or may be placed on limited duty.

18 58. All documents reflecting, referring, or relating to the reasons that transgender service  
19 members were placed on "limited duty" in the Army and Air Force over the "one-year period"  
20 referenced on page 33 of the February 2018 Department of Defense Report and  
21 Recommendations on Military Service by Transgender Persons.

22 59. Documents sufficient to show, for each service branch by fiscal year from October 1,  
23 2014 to the present, the name, rank, and service unit of each service member who has been  
24 discharged from military service due, in whole or in part, to their transgender status or diagnosis  
25 of gender dysphoria, including without limitation documents showing the date and specific stated  
26 reason for their discharge.

27 60. All documents reflecting or relating to the "policy recommendations and a proposed  
28 implementation plan for the Panel's consideration" that were developed and/or provided to the

1 Panel of Experts by the “Transgender Service Policy Working Group,” as set forth at page 18 of  
2 the Report.

3 61. All documents reflecting or relating to the “analysis of accession standards, multi-  
4 disciplinary review of relevant data, and information about medical treatment for gender  
5 dysphoria and gender transition related medical care” that was provided to the Panel of Experts  
6 by the “Medical and Personnel Executive Steering Committee,” as set forth at page 18 of the  
7 Report.

8 62. All documents reflecting or relating to the reports and the responses to “queries for  
9 additional information and analysis to support the Panel’s review and deliberations” by the  
10 “Transgender Service Policy Working Group” and/or the “Medical and Personnel Executive  
11 Steering Committee,” as set forth at page 18 of the Report.

12 63. All documents reflecting or relating to the “input” the Panel of Experts received  
13 “from transgender Service members, commanders of transgender Service members, military  
14 medical professionals, and civilian medical professionals,” as set forth at page 18 of the Report.

15 64. All documents reflecting or relating to the “information and analyses about gender  
16 dysphoria, the treatment of gender dysphoria, and the effects of currently serving individuals  
17 with gender dysphoria on military effectiveness, unit cohesion, and resources” that was received  
18 and/or reviewed by the Panel of Experts as set forth at page 18 of the Report.

19 65. All documents reflecting or relating to “the Department’s own data and experience  
20 obtained since the Carter policy took effect” that is referenced at page 18 of the Report.

21 66. All documents reflecting or relating to the following references in the February 2018  
22 Department of Defense Report and Recommendations on Military Service by Transgender  
23 Persons (“Report”): (a) the “[d]ata retrieved from [the] Military Health System data repository”  
24 cited at pages 21-22, footnotes 64-66, and page 41, footnote 161; (b) the “[d]ata reported by the  
25 Departments of Army, Navy, and Air Force” cited at page 31, footnotes 114-115, as well as at  
26 page 33, footnote 121 and page 41, footnote 163, and (c) the “Defense Health Agency,  
27 Supplemental Health Care Program Data” cited at pages 31-32, footnotes 119-120, and page 41,  
28 footnote 162.

1 67. All documents referring or relating to the equal opportunity complaints discussed at  
2 page 37 of the Report, including copies of the complaints, email or other correspondence related  
3 to the complaints, and documents reflecting how the complaints were resolved.

4 68. Documents sufficient to show the basis for, and all data underlying or relating to, the  
5 purported increase in medical costs for service members with gender dysphoria as compared to  
6 service members without gender dysphoria, referenced at page 41 of the Report.

### 7 **DEFINITIONS AND INSTRUCTIONS**

8 1. “You,” “Your,” and “Yours,” whether or not capitalized, shall mean the Defendants,  
9 individually and/or collectively, including Defendants’ current and former employees, agents,  
10 affiliates, contractors, consultants, representatives, and other persons engaged directly or  
11 indirectly by or under the control of Defendants.

12 2. “Report” shall in the absence of other definition refer to the February 2018  
13 Department of Defense “Report and Recommendations on Military Service by Transgender  
14 Persons,” which was provided to Secretary Mattis by a purported Panel of Experts on February  
15 22, 2018.

16 3. “DODI 6130.03” shall mean “DoD Instruction 6130.03, Medical Standards for  
17 Appointment, Enlistment, or Induction into the Military Services.”

18 4. “Carter Policy” shall mean the policies for accession, retention, and military service  
19 of transgender individuals announced by former Secretary Ash Carter and reflected in Directive-  
20 type Memorandum (DTM) 16-005, as well as all other guidance or policymaking relating to or  
21 distributed under the policies reflected in that memorandum.

22 5. “Transgender,” whether or not capitalized, shall mean a person whose gender  
23 identity differs from the sex they were assigned at birth.

24 6. “Communication” shall mean any transmission of information by one or more  
25 persons to one or more persons by any means including, without limitation, telephone  
26 conversations, letters, telegrams, teletypes, telexes, telecopies, e-mail, text messages, computer  
27 linkups, written memoranda, and face-to-face conversations; “communication” includes all  
28 documents and electronically stored information (“ESI”) containing, summarizing, or

1 memorializing any communication.

2 7. “Document” or “documents” shall have the full meaning ascribed to it by Federal  
3 Rule of Civil Procedure 34(a) including ESI, and includes the original and any identical or  
4 nonidentical copy, regardless of origin or location, of any writing or record of any type or  
5 description, including but not limited to, all writings; records; contracts; agreements;  
6 communications (intra or inter-company); correspondence; memoranda; letters; facsimiles;  
7 electronic mail (e-mail); text messages; minutes, recordings, transcripts, and summaries of  
8 meetings, or recordings of meetings, speeches, presentations, conversations, or telephone calls  
9 (whether recorded in writing, mechanically, or electronically); handwritten and typewritten notes  
10 of any kind; statements; reports; voice recordings; desk calendars; diaries; logs; drafts; studies;  
11 analyses; schedules; forecasts; surveys; invoices; receipts; computer data; computer printouts;  
12 financial statements; balance sheets; statements of operations; audit reports; financial summaries;  
13 statements of lists of assets; work papers; pictures; photographs; drawings; computer cards;  
14 tapes; discs; printouts and records of all types; instruction manuals; policy manuals and  
15 statements; books; pamphlets; and every other device or medium by which information or  
16 intelligence of any type is transmitted, recorded, or preserved, or from which intelligence or  
17 information can be perceived.

18 8. “Identify,” whether or not capitalized, when used with respect to: (a) an individual,  
19 shall mean to provide the individual’s full name, job title, and employer during the period  
20 referred to, and current or last-known address and telephone number and business address and  
21 telephone number; (b) any entity other than an individual, shall mean to provide the entity’s full  
22 name and current or last-known address (designating which); and (c) a document, shall mean to  
23 provide the date, title, subject matter, author(s), recipient(s), and Bates number(s).

24 9. “Including” or “includes,” whether or not capitalized, shall mean “including but not  
25 limited to” or “including without limitation.”

26 10. “Relating to” or “related to,” whether or not capitalized, when referring to any given  
27 subject matter, shall mean any document that constitutes, comprises, involves, contains,  
28 embodies, reflects, identifies, states, mentions, alludes to, refers directly or indirectly to, or is in

1 any way relevant to the particular subject matter identified.

2 11. Produce all documents in the order in which they appear in your files. Documents  
3 that, in their original condition, are stapled, clipped, or otherwise fastened together shall be  
4 produced in this same condition.

5 12. Produce all documents within your possession, custody, or control including all  
6 documents in the possession, custody, or control of any United States government employee,  
7 agent, representative, consultant, attorney, accountant, advisors, or other persons directly or  
8 indirectly connected with you or subject to your control, any government department, agency or  
9 any other government subdivision.

10 13. If any responsive document has been lost, destroyed, removed from, or is no longer  
11 in your possession, custody, or control for any reason, please identify the document, its last  
12 known location, and the circumstances surrounding its loss, destruction, or removal.

13 14. If you contend that any responsive document is protected from disclosure pursuant to  
14 any privilege or work-product doctrine, please specifically set forth the privilege being asserted  
15 and any factual or legal basis for its assertion. Also set forth the date and title of the document,  
16 its subject matter generally, its author(s) and recipient(s), and its Bates number(s).

17 15. Each paragraph is to be construed independently and not by or with reference to any  
18 other paragraph for purposes of limiting the scope of any particular request.

19 16. If no documents responsive to a particular request exist, or if such documents exist  
20 but are not in your possession, custody, or control, then your response to that request shall so  
21 state.

22 17. Pursuant to the Federal Rules of Civil Procedure, these requests are continuing and  
23 you must revise or supplement your responses and production whenever new or additional  
24 responsive information becomes known.

1 Respectfully submitted April 12, 2019.  
2  
3  
4  
5

6 **NEWMAN DU WORS LLP**

7  
8 /s/ Jordan M. Heinz

Derek A. Newman, WSBA No. 26967

*dn@newmanlaw.com*

Jason B. Sykes, WSBA No. 44369

*jason@newmanlaw.com*

2101 Fourth Ave., Ste. 1500

Seattle, WA 98121

(206) 274-2800

13 **LAMDBA LEGAL DEFENSE AND  
14 EDUCATION FUND, INC.**

Tara Borelli, WSBA No. 36759

*tborelli@lambdalegal.org*

Camilla B. Taylor (admitted pro hac vice)

Peter C. Renn (admitted pro hac vice)

Sasha Buchert (admitted pro hac vice)

Kara Ingelhart (admitted pro hac vice)

Carl Charles (admitted pro hac vice)

18 **OUTSERVE-SLDN, INC.**

Peter Perkowski (admitted pro hac vice)

20 **KIRKLAND & ELLIS LLP**

James F. Hurst, P.C. (admitted pro hac vice)

Steve Patton (admitted pro hac vice)

Jordan M. Heinz (admitted pro hac vice)

Scott Lerner (admitted pro hac vice)

Vanessa Barsanti (admitted pro hac vice)

Daniel I. Siegfried (admitted pro hac vice)

*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on April 12, 2019, I caused a true and correct copy of the foregoing document to be served by email on the following counsel of record for Defendants:

Andrew R. Carmichael  
Trial Attorney  
United States Department of Justice  
Civil Division, Federal Programs Branch  
*andrew.e.carmichael@usdoj.gov*

*Counsel for Defendants*

/s/ Jordan M. Heinz